- Jody Powell on Sam Donaldson
- David Broder: The story that still nags at me
- Voting rights: The GOP's devious new political weapon

The Washington Monthly

FEBRUARY 1987/$3.00

THE SECRET WORLD OF WASHINGTON'S FIRST MODERN LOBBYIST

What the Truman tapes reveal about Tommy Corcoran

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Issues of the Information Age:

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At the beginning of this century, Theodore N. Vail, president of AT&T, understood his competition not just as other telephone companies, but as distance, loneliness, separation. He foresaw that the success of his company could end the geographic isolation of man. And in ending that isolation, the company's success would be assured. The vision became reality. By the mid-'70s, America had universal telephone service.

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We envision a vast global network of networks, the merging of communications and computers, linking devices so incredibly capable, they will bend to the will of human beings, rather than forcing humans to bend to theirs.

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LETTERS

Capitol gains

My question regarding venture capitalists' whining about tax reform, in particular the elimination of the special break for capital gains was, "Why should the government favor one kind of investment over another?" (*The New Republic*, September 22.) Your answer ("Tilting at Windmills," October) was, "tax incentives are needed to help these fellows decide to take the risk" of starting new businesses. Here's why you're wrong.

1. The capital gains break, as you know, applies not just to creative new entrepreneurs, but to anybody who made a capital profit: on a share of GM stock, on a Krugerrand, whatever.

2. Your longstanding idea of repairing this flaw by giving the break only to those who invest in new businesses is impossible, both practically and conceptually. What is a "new business"? Distinctions of this sort are precisely what make the current tax code such a complicated mess full of perverse incentives. Clever accountants will have no trouble helping people reincorporate all the time to qualify for special breaks. That's the practical problem. The conceptual problem is: there's nothing necessarily creative and entrepreneurial about new businesses, per se. What sense does it make to give a subsidy to a new McDonald's franchise, while denying it to, say, a small but established family firm that wants to branch out into a new product line? Or will you add "small businesses" or "family businesses" or "new product lines" to "new businesses" as categories that qualify for your special break, thereby starting back down the road to the present madness?

3. Even if you could define and isolate "risky" investments, why should the government especially reward these (and, to make up the revenue, especially burden other investments)? To take an example in your column: if an investor faces the choice between a surefire 10 percent return on stocks and bonds or a longshot 10 percent return on some new venture, that is the free market's way of saying that the new venture probably isn't a good idea—either for the particular investor or for society. Riskier investments require the promise of larger returns. What venture capitalists do is try to decide whether the potential return is worth the risk. If they think so, they'll make the investment—not as some kind of public service, but to make money. If they guess wrong, they pay no tax. If they guess right, why shouldn't they pay the same tax as anyone else? In short, the market itself rewards risks that deserve to be rewarded. There's no reason to suppose the government knows better than the market when risks are worth taking.

4. You should be especially uncomfortable in bringing up *The Washington Monthly* as an example of the benefit of special tax breaks for new businesses. The *Monthly* is a wonderful magazine and an important civic institution. But strictly as an investment, it is a risk that has not so far (and it's been 18 years) paid off. Even if it was tax breaks that enticed investors to fund the *Monthly* (which I doubt), the same tax breaks have encouraged other investors to pour millions into non-economic ventures without the *Monthly*'s extra-financial virtues.

Nevertheless, thanks for saving me from a career in the law.

MICHAEL KINSLEY
Washington, D.C.

See "Tilting at Windmills" for the editor's reply.

A defense mechanism

I enjoyed, and was properly horrified by, Paul Glastris's "Dialing For Dollars" in the December issue. I had no idea that the telephone solicitation business was such a big deal. But the reason I had no idea is simple: some time ago I installed a sincerity testing device on my telephone. Only those callers who *sincerely* want to reach me are allowed through. Since, it seems, all solicitors are manifestly not sincere, they never reach me. It works wonders. I never get any of those dinnertime interruptions.

I was a little surprised that Mr. Glastris didn't mention the existence of such devices, more commonly known as telephone answering machines. I simply leave mine on all the time; the best thing I ever did. Granted, this may not be an economically feasible defense against solicitation for everyone, but I suspect that a solicitor would rather get a recording than have to wade through his sales pitch and be turned down.

JOHN D. STACKPOLE
District Heights, Maryland

An ex-dove's rage

Jeff Stein praises Robert Shaplen's book on Indochina ["The Morning After," December] because Shaplen "declines to jam Vietnam's lack of civil liber-

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ties down our throat." But much of the antiwar movement jammed South Vietnam's lack of civil liberties down our throat, and we weren't inclined to make the excuse that Saigon "is not Washington, D.C."

So for that and other reasons, we cut off funds for the war, and guess what? The liberation forces turned out to be far worse for American interests, and for their own people, than the corrupt, unrepresentative regimes we'd been propping up. Stein takes a friendlier tone toward Vietnam's new masters than I suspect he would toward any "reactionary" regime that came to power under similar conditions. And his last line of defense, "Not all communist dictators launch holocausts," is as limp as I ever want to see.

All this would be water over the dam if the Vietnamese experience hadn't repeated itself in Iran, and didn't threaten to repeat itself again in Central America. The liberals may have fallen out of love with Third World revolutionaries, as Stein says, but they haven't given up their attacks on "reactionary" regimes, or their implicit argument that it's better to lose to the revolutionaries than to oppose them by "immoral" means. In Vietnam at least, that meant handing power to people who would and did murder women in the last stages of pregnancy on orders. As an ex-dove, I find it hard to look back at Vietnam and its aftermath without rage, disgust, and a distinct tinge of shame. Those feelings, and the prospect of having to live through the spectacle that called them forth again, make me understand the neoconservatives a lot better.

JEFFREY M. LANDAW
Baltimore, Maryland

Images and memories

Lawrence Wright's candor is something to marvel at when he reports that his mother and father were just like Richard Nixon ["Why We Liked Dick," December]. If this corespondent had had parents with sobriquets like Dirty Trickster Dad and Laundered Money Mom, wild horses would never have dragged the admission out of her.

Actually, Nixon was known as Tricky Dick right from the beginning of his career and Watergate was well under way when he ran successfully for president a second time. Wright's piece is ominous because it reveals how completely Americans have learned to block out whatever reality does not fit in with their "images."

MARGARET HALSEY
White Plains, New York

Lawrence Wright's article was straight to the point and brought back fond memories of old but losing campaigns against Nixon. It was quite accurate, as I remember it.

I hold the theory that Nixon had determined to carry every state in the 1972 election. He would equal George Washington's first and America's only unanimously elected president. He would vindicate his loss to Kennedy in 1960. Watergate was part of Nixon's plan to

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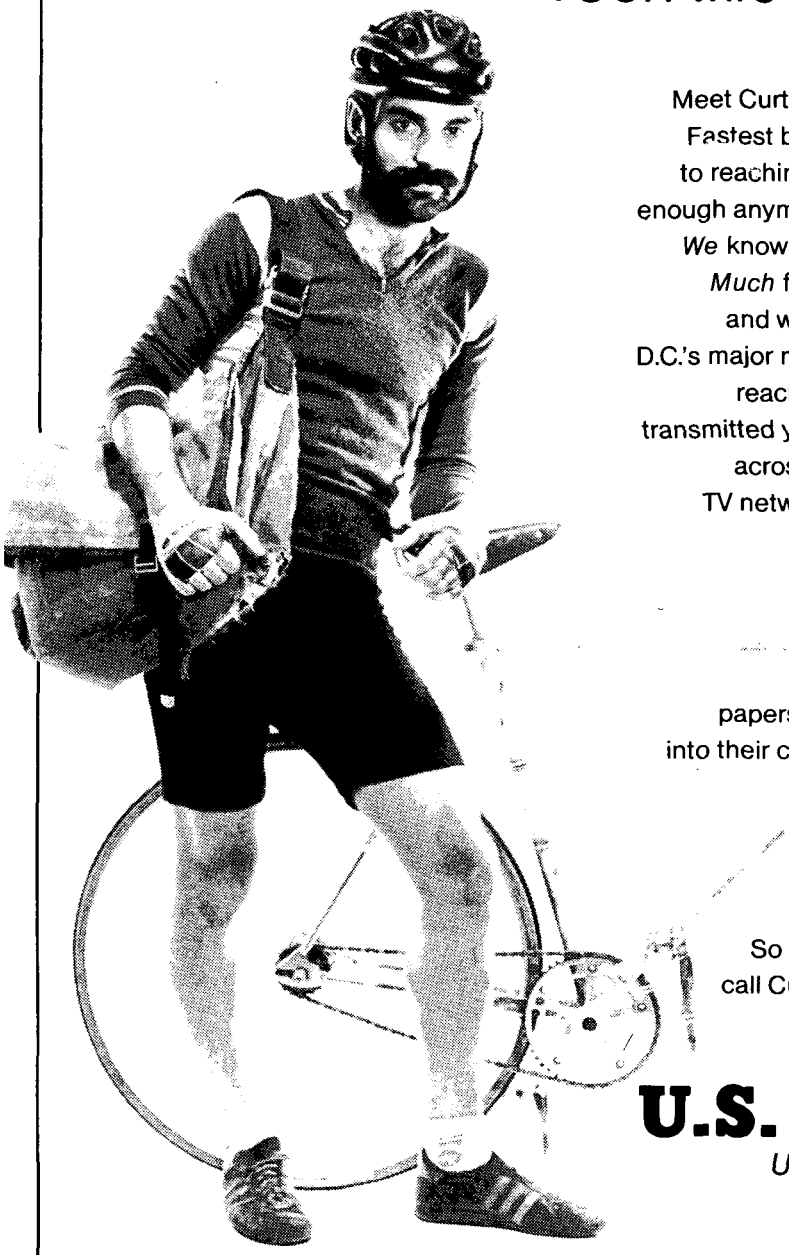

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carry every state. The burglary was illogical in ordinary terms, since defeat of McGovern was a foregone conclusion, but in Nixon's mind it was necessary to deny the Democrats every state, which was quite a different objective.

There is no "real" Nixon, just the images and memories of those who loved him and those who hated him. That will never change.

DONALD L. WHITE
Washington, D.C.

Gore's gambit

Headline-chaser Albert Gore Jr. ["The Longest Shot," John Eisendrath, November] may be a whiz at foreign policy, but he's a bit soggy in his thinking about domestic issues like music censorship. Whether he understands it or not, his wife's campaign to slap warning labels on records has gotten out of hand already, escalating from "voluntary" compliance by record companies to aggressive boycotts by so-called "consumer protection" groups and arrests of artists on obscenity charges.

Gore and his media-advisers should take heed: millions of voters spanning several generations are enthusiasts for rock. For many of them, this is not a family issue at all, but one involving freedom of speech, and creative license. By allowing the Gore name to be attached to this divisive gambit, the senator has seriously weakened his credibility.

DAN CAMERON
New York, New York

Foxfire deserves better

I was very surprised and disappointed that a magazine of *The Washington Monthly*'s quality would publish Susan Ohanian's cheap shot review [December] of Eliot Wigginton's fine book *Sometimes a Shining Moment: Twenty Years of Teaching in a High School Classroom*.

From factual errors (Foxfire isn't, and never has been, an "alternative school"), to character assassination (such as her false assertion that Wigginton's attitude toward students is even more Draconian than Education Secretary William Bennett's), Ms. Ohanian consistently misrepresents both the book and its author. Using grossly out of context quotations to put down a gifted writer—while, of course, "revealing" the compassion and dedication of the reviewer—is beneath your magazine's usual standards of fairness and intellectual honesty.

The irony is that you have chosen to trash an individual and a publication that deserve to be celebrated in your pages. Both Eliot Wigginton and *Sometimes a Shining Moment* come very close to fulfilling the ideals about teaching and educational reform espoused in *The Washington Monthly*. This teacher/author and his latest work reflect the kind of commitment to genuine public service, to analysis and self-criticism, to effective strategies for achieving idealistic goals and to sustained good works that your magazine repeatedly endorses. Wigginton is far from perfect (as he readily concedes) and his book is not the final word on education in America (nor does it claim to be). However, both the author and the book tower over the rising tide of educational drivel in the debate about public schooling.

JONATHAN P. SHER
Chapel Hill, North Carolina

No smoking gun

I would like to call attention to Charles Peters's claim that the "first smoking gun" has appeared to support charges that the regional telephone holding companies are subsidizing their unregulated businesses with ratepayer money ["Tilting at Windmills," November].

To this date, there is no proof that Pacific Bell has subsidized its unregulated affiliates. The audit to which Mr. Peters refers was actually an investigation conducted by the Public Staff Division of the California Public Utilities Commission (CPUC). While the division is paid to represent ratepayers before the CPUC, its findings do not reflect any official CPUC position or ruling.

Pacific Bell strongly contests the Public Staff Division's charges of cross-subsidies, which are currently being reviewed by the CPUC. All transactions made between Pacific Bell and its unregulated affiliates conform to existing state and federal regulations which are designed to prevent the kind of cross-subsidies that Mr. Peters suggests. A final decision on the Public Staff Division's allegations will not be made until sometime next year.

For Mr. Peters to refer to the division's charges as a "smoking gun" is to blur the distinction between accusations and evidence.

DANIEL PURNELL
San Francisco, California

Go Cardinals!

It is disconcerting to see that the well known and widely respected *Washington Monthly* would permit the little known and little respected Steven Waldman to characterize unfavorably the well-known and widely respected Catholic University ["The King of Quotes," December]. Did not Waldman report that Norman Ornstein believes his decision to become a member of the faculty at Catholic University was a pivotal decision and from that base Ornstein ". . . had a terrific opportunity" and ". . . realized there were few political scientists interested in Congress based in Washington"?

It is my feeling that Ornstein needed Catholic University more than Catholic University needed Ornstein.

J. ANTHONY MORRIS
College Park, Maryland
Mr. Morris is an alumnus of Catholic University.

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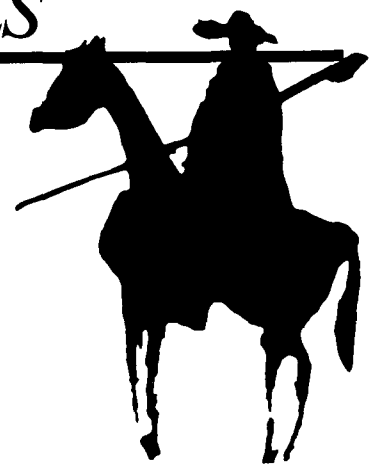
TILTING AT WINDMILLS



In the wedding announcements that couples sent to newspapers when I was growing up, whatever puffery was involved usually related to the ancestors of the bride and groom: "Mrs. Robinson's grandfather was president of Harvard University," or "Mr. Robinson's grandmother was the late Countess Consuelo DeFrasso."

Now I have before me an example of how all this has changed in modern Yuppiedom. The ancestral advertisements have yielded to plugs of a more practical kind. For example, the announcement in *The Washington Post* of the marriage of Dr. Candace Beebe Pert and Dr. Michael Roland Ruff includes this sentence: "In recent years, Drs. Ruff and Pert have published a number of seminal scientific papers."...

One of the most depressing facts about Irangate is the Reagan NSC's failure to use the knowledge of people in the Carter administration who had also tried to deal with Iranian "moderates." This is, unfortunately, typical of each new administration's failure to learn from the experience of those that preceded it in the White House. I am reminded of Hamilton Jordan's confession in his book, *Crisis*, of how he had ignored sound advice given him by Gerald Ford's chief of staff, Richard Cheney. Jordan went on to describe his efforts to help those who replaced him:

"I was thumbing through a box of personal memos one day when I heard the door open. I peered over the box and there were Ed Meese and Jim Baker looking around... 'Hope we didn't interrupt you,' Meese added quickly. 'We were just checking out the offices before we made staff assignments.'

" 'As I remember it,' I said, 'assigning the offices was more difficult than choosing the cabinet.' They both smiled. 'You're right,' Baker said. 'Well, we need to move on,' Meese said. 'By the way,' I said, 'I told Jack Watson to tell both of you that Dick Cheney gave me some good advice four years ago that we ignored. I'd be glad to do the same if you'd like.' 'Good idea,' said Meese. 'Why don't we try to get together next week for lunch. I'll check my schedule and call you.' "

Needless to say, Meese never called....

If ever a public offical was the answer to the lobbyists' prayers, it's Ned Ray McWherter, the new governor of Tennessee. He has "extensive holdings" in banks, a trucking company, a nursing home, and a beer distributorship. All of these businesses are regulated by the state....

Do you remember the news item about a year ago telling how the Supreme Court's fleet of automobiles was being used for personal errands of the justices and their families? Senator William Proxmire asked the GAO to investigate. But guess what? Warren Burger, who was then the chief justice, recently acknowledged that he refused to cooperate with the investigation. One might ask, if the Supreme Court is above the law, why aren't the rest of us?

The chief justice, in attacking the original news story about the misuse of the Court's cars, once again demonstrated the kind of defensive inanity that we have come to expect from our

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official malefactors. In reply to the article's charge that a government car was used to pick up his daughter's laundry, he indignantly asserted, "It was *my* laundry!"...

A treasured friend of mine died last year. He was a good and thoughtful man whose time on this earth gave pleasure to all who knew him. But he was in one sense a very unhappy man. He never enjoyed his work. He spent his life dutifully managing family businesses that he had inherited.

At times he talked about doing other things, such as becoming a doctor, and one could sense his excitement at the prospect. But he never made the break. Finally it was too late.

Thinking about him makes me sad. It also makes me angry at myself for not having done more to try to persuade him to do what he wanted to do while there was still time. I don't want to make that mistake again. So if there is anyone out there reading this column who is still doing work he or she does not like and respect, please get out now. You can be in your thirties—even your forties or fifties—and it's not too late.

I know it can be done because I've done it—changing the kind of work I did three times in my adult life—leaving the theater to enter law and politics at 27, leaving the law to become a Peace Corps bureaucrat at 34, and leaving the government to start this magazine at 41. The last change in particular was filled with anxiety and peril, but I was finally glad I had made it, as I had been glad I made the others, for each step was taken in the search for work that would more fully use whatever abilities I possessed.

Suppose you became a lawyer because your parents wanted you to do something respectable. Or suppose you went into investment banking because it seemed to be where the glamour and excitement were going to be in the eighties. Now you find yourself doing something that is either boring or unworthy or both. What should you do? Get out! Now.

What can you do? One possibility is teaching. It is work that many have found they loved. It is needed especially in the ghettos, where good teachers can make a real difference in the lives of their students. And you may not have to go back to school in order to get teaching credentials. Increasingly, school boards like those in Connecticut and New Jersey no longer require education degrees. In many parts of the country, if you have a solid science or math major in college, you can walk in and be hired to teach.

Maybe you would like to start your own enterprise and make a good product and give people jobs. Just because my friend didn't like business doesn't mean that you won't find that the life of the entrepreneur can be exhilarating.

Whatever you decide to do, the point is to decide and move. Don't let yourselves be trapped in the wrong work. Don't wait, as my friend did, until it's too late....

Of course, if you do want to be an entrepreneur and don't have enough money of your own to start your business, you are not going to find it easy to get the financing. That difficulty is at the heart of my dispute with Michael Kinsley (see "Letters") about the need for tax incentives for new businesses.

As for Kinsley's belief that *The Washington Monthly* would have attracted investment without such an incentive, it is certainly true that our backers have been public-spirited people who wanted to aid a good cause. But it is also true that we raised less than 10 percent of our capital without the tax break, and reorganized to get the break only because potential investors urged that we do so. They would, I believe, have given something without it, but they gave considerably more because of it.

Kinsley opposes such incentives for two reasons: 1) the difficulty of distinguishing between new and old businesses and 2) if the new venture without a tax break isn't going to make more money than an investment in existing stock, it shouldn't be encouraged.

Take the second point first. Imagine an investor faced with a choice of buying stock from a shareholder in DeadintheWater Corp., a sure-fire 10 percent dividend payer, or buying new stock in Alive and Vital Inc., a new company that *may* pay 10 percent. He will buy DeadintheWater, but his money will go to the previous shareowner, not to hire new employees or build new plant. Alive and Vital *will* use his

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money to hire and build, while his purchase of stock in DeadintheWater produces no economic benefit other than a commission for his broker. I think society should encourage him to invest in Alive and Vital. It could also be argued that, if DeadintheWater wakes up and decides to issue new stock to build a new plant and create new jobs, the new issue should receive the same tax breaks given to Alive and Vital when it started.

As to the difficulty of distinguishing between old and new, of course there are gray areas. Modern bureaucratic liberalism dearly loves those gray areas because they excuse its failure to try to make needed distinctions. If, for example, in arguing for a means test for entitlements programs, you say that it is outrageous for Mrs. John D. Rockefeller to be collecting social security when a poor widow who has no income other than social security is not getting enough to eat, the bureaucratic liberal will reply "Ah, but what are you going to make the dividing line between those who get social security and those who don't?" as if that answers your argument. But why should we countenance the insanity and injustice of the extremes just because we're going to be confronted by difficulty when we reach the middle? Let's start by dealing with the clear extremes. Here, whatever the gray area may be, there is no question that we can distinguish between the economic benefit involved in trading an existing issue of stock and an investment that hires new people or builds better plants. We need the latter form of investment far more than the former, and should encourage it with favorable tax laws. As long as investors are confronted with advice like Jane Bryant Quinn's "Think Twice Before Taking the Plunge On New Stock Issues" and *Money* magazine's "Why Initial Stock Offerings Are Bad Bets" (see page seven of "Tilting at Windmills," July/August), many of them are going to need the encouragement of a tax incentive to take that risk and make that otherwise bad bet.

This is especially clear in the manufacturing and production areas of our economy, where the stimulus of new enterprise and new imagination is so badly needed. The case for the incentive is less compelling in the prosperous service sector, especially in the case Kinsley suggests of a franchise like McDonalds that is already well established. But even here I would not begrudge the tax break because I would welcome the new jobs that would be provided. Besides, I like the fries....

If you want a clue as to why our foreign trade deficit so stubbornly resists the steady decline that was supposed to result from the falling dollar, consider the results of a recent survey of European public opinion by the Roper Organization:

Eighteen percent believe "Made in the USA" is a mark of quality. By contrast, 54 percent think "Made in West Germany" is such a mark....

Did you see that item in *Newsweek* comparing the percentage of CEOs and workers who receive year-end bonuses? Sixty-nine percent of the CEOs are taken care of. Seventy-eight percent of the workers get nothing at all.

You might also have missed the Associated Press story about a Michigan furniture company's "silver parachute" plan. What makes this plan news is that it takes care of all the workers, not just the top executives who are the usual beneficiaries of the generous severance pay and other goodies that golden parachute plans use to guard against the unhappy consequences of takeovers....

One reason there is such strong resistance to bureaucratic reform is that there are so many bureaucrats. According to the Census Bureau, there are now 16,690,000 Americans who work for federal, state, and local government. That's not even counting the military, which would add another two million or so to the total. With their dependents, we must be talking about 40 to 50 million people who have a personal stake in preserving and expanding the functions of government....

Of all the sellout agencies in Washington, the FAA has to rank close to the top of the list in its sycophantic devotion to the interests of the aviation industry over those of the public. For example, a recent study by the inspector general's office of the Department of Transportation indicated that as many as 16,000 airplane pilots have continued to fly even though their driver's

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licenses have been revoked or suspended for drunken driving. The FAA's answer to the study: "It is entirely possible that a person could use alcohol and violate drunk driving laws but have enough common sense to know they shouldn't do it when they fly because it's a different ball of wax." It may be possible, but it's not nearly probable enough to comfort the rest of us....

When my book, *How Washington Really Works*, was published in 1980, two reviewers dismissed it, saying, in effect, "It can't be true; things can't be that bad." I couldn't get mad because I had experienced a similar reaction a decade earlier when I read James Watson's *Double Helix*, an expose of the culture of science that was as unflattering as my own assessment of the culture of bureaucracy. The essential truth of Watson's indictment has, however, stood the test of time.

The latest evidence in support of his case comes from Jonathan Kwitny of *The Wall Street Journal*, who reported from Atlanta:

"The AIDS laboratory for the Centers for Disease Control, set up with high hopes three years ago and staffed with leading scientists, has been crippled by ego clashes, professional jealousies, and perhaps worse. For months it has been dogged by allegations of hampered research, of political meddling, and even sabotaged experiments."

One researcher ordered a technician to throw out the virus cultures his colleagues were using. Another found his culture had been rearranged and contaminated....

Let me tell you about the daring reform— "certain to anger the police union," says the *Times*—that is being proposed in New York. It will allow, again according to the *Times*, "the Commission to make promotions, based on performance." What else, we might ask, should promotions be based on?...

Sometimes I'm a little too much like a proud father in pointing out this magazine's accomplishments, so if you will indulge me in the following item, I promise not to brag again for at least two months. In its December 23 issue, the *Village Voice* revealed that the CIA had helped the infamous Ugandan dictator, Idi Amin. That news was first printed here three years ago....

Oh hell, just one more and then I'll stop. Another story of ours ("Mutually Assured Corruption: The Justice Department and Ann Burford's EPA," Daniel Benjamin, January 1986), turned out to be true enough that the attorney general had to refer the case to a special prosecutor. The trouble is that Ed Meese is still trying to protect the guilty parties. Three former Justice Department officials were, we charged, involved in trying to mislead Congress in a dispute involving the EPA. Meese has limited the investigation to just one of the three, refusing to grant a request from the special prosecutor to expand the scope of the inquiry to the others. As Rep. Barney

Michael P. Hamilton

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Frank has observed, "It's crazy to say that Meese is not capable of investigating them because of a conflict of interest, but he's particularly capable of saying whether they should be investigated.". . .

I am indebted to Warren Brookes, the conservative columnist with whom I otherwise seldom agree, for reminding me recently of the crucial role Charles Dickens played in giving capitalism the conscience without which it can become cruel greed.

I would suggest one other key figure in this humanizing process—Karl Marx. He may have been motivated by a desire to destroy, not reform, capitalism, but his indictment contained truths that had to be faced. Among them was the accuracy of his devastating description of the British coal industry.

I was recently reminded of what an ugly business mining was, and still can be, by a column in the *Charleston Gazette* by my old friend Don Marsh, who described what is called "thin-seam" mining:

"A typical thin-seam mine is no higher than 28 to 42 inches. Workers in many of them must lie on their backs to take a drink of water or eat a sandwich. They urinate from a crouch."

Think for a moment about the dust and darkness that go with these horribly cramped conditions. Think, too, of the noise made by the machine called a Wilcox-auger that is used in these mines. And think of the dangers: in the past decade, 17 miners have been killed by roof falls in the mines.

This last figure was among the considerations that led the West Virginia Supreme Court to order that full roof bolting be used in these mines to protect the workers. The official who ignored this order, Kenneth Faerber, the state energy commissioner, was fined $100. He wants the state to pay his fine and his attorney's fees and expenses— $6,899— in connection with resisting the order. This request has been endorsed by the state's attorney general, which helps explain a point this magazine has been trying to make for years, namely that self-protecting bureaucrats are today's spiritual equivalent of the cold-hearted bosses of 19th century capitalism. . . .

If you've been wondering whatever happened to neoliberalism, here is a summary of the views of the Democratic Leadership Council, which includes such people as Bruce Babbitt, Charles Robb, Richard Gephardt, and Sam Nunn. After the December meeting of the council in Williamsburg, *The Washington Post*'s Paul Taylor wrote:

"If the council has its way, the party will be selling a strong but lean defense; the courage to raise taxes and restrain entitlements if necessary; a change in workplace culture to link pay to performance and raise workers' stake in their companies' success; a voluntary program of national service for young adults and 'international competitiveness' proposals that range from increased investment in research and education to policies on trade designed to avoid the label of protectionism while guarding industries against unfairness.". . .

Why do I hate the cigarette companies? Let me count the reasons. A very good one was supplied by a recent story in *The Wall Street Journal* headlined, "Tobacco Companies Target Blacks with Ads, Donations, and Festivals." Black young men and women are now smoking at a rate considerably higher than their white counterparts. The resulting damage to their health will help assure that they remain disadvantaged. The tobacco companies should be ashamed, but, of course, they have no shame. . . .

One of the most touching news stories I've read recently was about a group of Poles who have worked for years to get a monument built to honor the American fliers who flew incredibly dangerous missions all the way across Nazi Germany to try to aid the Warsaw uprising in August 1944. What makes these Poles so admirable is that they have risked the wrath of their own communist government, which wants to hide the fact that the American airmen were doing what Soviet airmen and soldiers weren't doing. The Soviets were just across the Vistula from Warsaw, but Stalin didn't like the democratic Poles who led the uprising, so he instructed his troops to just sit there while the rebels were crushed by the Nazis. The brave American fliers tried to help with supplies from the air but only got themselves killed in the process. . . .

—*Charles Peters*

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How the GOP is using the Voting Rights Act to carve out Republican election districts

BEWARE OF REPUBLICANS BEARING VOTING RIGHTS SUITS

by Matthew Cooper

In December 1985, the Supreme Court heard Thornburg v. Gingles, a case that seemed like it was torn from the pages of *To Kill A Mockingbird*. The case, which concerned racial gerrymandering in North Carolina, was a familiar confrontation of civil rights groups and their conservative opponents. On one side of the chamber stood the Reagan Administration's Solicitor General, Charles Fried, the attorney general of North Carolina, and the Washington Legal Foundation, a conservative advocacy group. Opposing them were the NAACP Legal Defense and Education Fund, the American Civil Liberties Union, and a bipartisan group of congressmen including Senators Edward Kennedy and Robert Dole. Last spring, the Court ruled in favor of the NAACP et al.

Reinforcing the civil rights advocates in their suit was a fellow petitioner that clouded the political battle—the Republican National Committee (RNC). In his supporting brief, RNC general counsel Mark Braden claimed that the Republican concern was "fair and effective representation for all the citizens of North Carolina in their state legislature." On the sidelines, other Republicans, including North Carolina's Gov. Jim Martin, cheered him on. A state GOP official told *The Washington Post* that "there was a happy coincidence between blacks and Republicans."

Blacks and Republicans came together in North Carolina—and across the South—to create black legislative districts, enclaves with a majority black population. In the last few years, many of the nation's most prominent civil rights groups, joined by local Republicans, have used provisions of the Voting Rights Act to overturn existing electoral plans. For blacks, creating black majority districts is a simple way of ensuring the election of black representatives. For Republicans, packing blacks into a few districts means that the surrounding districts become whiter, less Democratic, and fertile soil for GOP candidates. Of course, race-based redistricting has often been used to defeat racists and increase black representation. But in teaming up with the Republicans to create more and more heavily black majority districts, civil rights groups may ultimately harm their own cause.

While the Reagan Administration was opposed to racial redistricting in the Thornburg case, there are signs that the Department of Justice has used the Voting Rights Act to partisan advantage. Furthermore, the Voting Rights Act may well be one of the legal tools the GOP will use in its "1991 Plan"—its all-out strategy to influence reapportionment following the 1990 census.

Redistricting has always been used as a weapon in party politics by both sides, but more is at stake now than a shift of some votes to the Republican column. In local elections, where candidates often run independent of party affiliation, voting rights suits have created districts where white candidates no longer need to court black voters—and vice versa. And there is the great danger that as redistricting spreads, state houses, county commissions, and even Congress will become

Matthew Cooper is a Washington reporter for Thomson newpapers.

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dominated by two factions—blacks who are unaccountable to whites, and whites who are unaccountable to blacks.

"You know, the federal government goes through the South," one RNC aide joked, "and says you have been very bad to your blacks. You have to desegregate your restaurants, your schools, and your hotels. And, yes, you have to *segregate* your districts."

Common cause

The exact number of voting rights suits is unclear, but dozens are launched every year. New York City and Chicago have had their days in court, just like Lubbock, Texas. Anchorage, Alaska even has a suit pending. How these suits have affected the fortunes of the two major political parties remains uncertain. One thing is known: When white Democrats are decoupled from their black constituents, they lose.

Look at the aftermath of voting rights suits in the South.

In 1984, South Carolina created two black state legislative districts to fend off the Department of Justice. In these black districts, the white Democrats held onto their seats. In the surrounding four districts, from which black voters were drawn, the liberal Democratic incumbents were all defeated by conservative Republicans.

In 1983, when the Alabama state legislative lines were redrawn to comply with the Voting Rights Act, Republican strength nearly doubled in both houses. Again, the gains often came in districts where black voting strength has been diluted. One Democratic representative, Larry Dixon of Montgomery, forced to run in a new, lily-white district, switched parties.

When North Carolina was reapportioned to comply with the Voting Rights Act in 1984, nearly half of the 24 Republican state legislative seat pickups came in districts where lines had been redrawn. The growth of Republican strength in the South is owing to several factors—like the Reagan landslides—but it is hard to believe that redistricting wasn't a boon to the GOP.

The Republican leadership is not oblivious to this effect. The RNC has done more than go to court to force race-based districting. They've even allowed at least one member of their senior staff to assist civil rights advocacy groups that were working to redraw district lines. Dr. Thomas B. Hofeller, director of the RNC's computer services division, said he has worked with black plaintiffs in Chicago and the Mexican American Legal Defense and Education Fund (MALDEF) in Los Angeles. Computer experts, like Hofeller, who can perform analyses of voting behavior, are essential in today's highly technical voting suits. MALDEF's complaint that the Los Angeles city government discriminated against Hispanics when crafting voting districts embarrassed black Mayor Tom Bradley during his failed gubernatorial campaign against Republican George Deukmejian.

Hofeller maintains he aided the groups on his own behalf—with the RNC's permission, but not as its representative. "Sometimes blacks and Republicans make common cause," he says. That kind of common cause could transform the political landscape to the Republicans' advantage. Nationally, the RNC's 1991 plan is targeting 750 select counties. The GOP can look to 138 congressional districts where blacks constitute 15 percent or more of the population, which makes them ripe for consolidation.

To understand how the Republicans became allied with civil rights groups, it is important to understand the Voting Rights Act and its history.

Effect test effects

"I want the goddamndest, toughest voting rights law you can find," Lyndon Johnson told his aides in 1965. They delivered, producing a statute that did what other laws, court orders, troop movements, and voter drives had failed to do. It opened the polls for millions of blacks; within two years of the act's passage the number of registered voters in Mississippi jumped ninefold.

The success of the act lies in its scope. It is a mercilessly—and wonderfully—thorough piece of legislation, complete with its own regulations, bureaucracy, and individual amendments. Some sections, like the ban on literacy tests, cover the entire nation. Others, like the provision of bilingual ballots for some ethnic groups are only triggered by a mathematical formula.

By the early seventies, voting rights litigation began to change. Violence and intimidation were still being challenged, but civil rights attorneys began to turn their attention to what they considered equally pernicious abuses: majority-vote requirements, at-large electoral systems, and other devices that they believed amounted to disenfranchisement.

Those suits involved much more than witnesses testifying about recalcitrant registrars. To determine whether a community was racially polarized, plaintiffs and defendants hauled in demographers, political scientists, and computer

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The Republican National Committee has even allowed at least one member of its senior staff to assist civil rights advocacy groups that were working to redraw district lines. "Sometimes blacks and Republicans make common cause," says the RNC computer expert.

scientists to assess the ebb and flow of local politics in sleepy Southern towns.

When minority plaintiffs won, the losing municipalities' electoral systems had to be revamped. Most frequently, at-large plans, in which all voters cast ballots for candidates running citywide, were broken up into wards.

The legal definition of a fair method of election remained—and still remains—vague. But in 1980, the Supreme Court ruled that proof of discriminatory "intent" was required for an electoral system to be declared unconstitutional. A pattern of discrimination could be used as circumstantial evidence to reach the verdict of discriminatory intent, but a statistical disparity of black and white electoral success was not, by itself, illegal. For there to be discrimination, the Court ruled, someone had to be discriminating.

When sections of the Voting Rights Act came up for renewal in 1982, civil rights groups wanted to change the act so that electoral systems with a discriminatory "effect" would be outlawed. Oblivious to the consequences for their own party, Democrats scarcely questioned this radical change in the law. This was testimony to the successful strategy of Ralph Neas, executive director of the Leadership Conference on Civil Rights who portrayed opponents of the "effects test" as "isolated extremists." No Democrat would risk being called a racist. With scarcely a Democratic defection in the House and none in the Senate, the bill passed the House 389 to 24, and the Senate 85 to 5.

The "effects" test was touted as a mere clarification of the law, but as civil rights attorney James Blacksher acknowledged last year, "It was a revolution in voting." The new, broadened definition made it much easier to bring electoral discrimination suits. There are no firm statistics available, but civil rights attorneys agree that the amount of litigation has increased. Plaintiffs now win well over two-thirds of their cases, speculates William L. Taylor, a Washington civil rights attorney and Lyndon Johnson's staff director of the U.S. Commission on Civil Rights. The black-Republican victory in the Thornburg Case, which broadened the definition of discriminatory effect, will make it even easier to win these cases in the future. There are also many more out-of-court settlements. Many small towns like Warrington, Virginia (population 4,000), have resolved their disagreements without waiting for sentencing.

Georgia's folly

That voting litigation is bulldozing the political landscape is not, by itself, disturbing. In rural spots like Merengo County, Alabama, or even cities like Jackson, Mississippi, redrawing the political map gives political power to blacks who seemed to have none at all. These are areas where race seems to control politics: where there was little of the backslapping that defines politics, where campaigning across racial lines was virtually unknown, even when competition between two or more whites would seem to demand the courtship of black voters.

But look at Atlanta. Long before the civil rights movement, it was touted as "the city too busy to hate." The city does have its racist elements, but it has a large black middle class, and it has a substantial number of sympathetic whites. This racial quietude allowed Andrew Young, now Atlanta's second black mayor, to run for Congress in 1972. Back then, his 5th Congressional District had a 48 percent black population, though low rates of registration and turnout. Running a biracial campaign, Young became the first black to hold office in the deep South since Reconstruction. When he left office in 1976 to become Jimmy Carter's United Nations ambassador, he was replaced by Wyche Fowler, a white who was arguably the most liberal congressman from the South. Building on Young's coalition, he won by substantial margins in 1978 and 1980.

After the 1980 census, the Georgia legislature reapportioned its congressional districts. Its proposed plan increased the number of blacks in the

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5th District to make it 57 percent black. Unsatisfied, civil rights groups sued, charging the state with thwarting the political will of blacks. The decision handed down by the District of Columbia Circuit Court of Appeals created a 65 percent black district, and gratuitously repeated charges that an elderly black legislator who opposed the new plan was an "Aunt Jane."

In 1984, the judicial "remedy" went into effect. But did blacks really gain political strength? Probably not. In the first place, blacks thought enough of Fowler to re-elect him in 1984. In 1986, when Fowler successfully ran for the Senate, a black, John Lewis, ran for his House seat and won. But this is not necessarily because of the district's new racial mix. After all, Andrew Young won when it was only 48 percent black. Like Young, Lewis was a celebrity and a civil rights hero from the sixties. And so was his only serious challenger, Julian Bond. In fact, it was Bond who won the majority of the black votes, and under the effects test he could go to court, claiming that the election was evidence of racial discrimination even though a black won.

Beyond this, blacks actually lost political influence. In the adjacent district, where the percentage of blacks was reduced from 28 to 17 percent, Elliott Levitas, a veteran moderate with an early and outspoken record on civil rights, was defeated. He lost to Republican Pat Swindall, who ran ads showing Levitas with Geraldine Ferraro and labeling him a "New York liberal."

Barney's store

Where is the Reagan Administration on all of this? Intimately involved. One of the most important elements of the Voting Rights Act—Section 5—requires covered jurisdictions concentrated in, but not confined to, the South, to have any electoral changes approved by the Department of Justice before they can be implemented. It is an extraordinary extension of federal power, and the Supreme Court has permitted it only so long as it is temporary and restrained. It is the power to veto councilmanic districts in Charlotte, North Carolina and congressional lines in Texas, auditor elections in Atlanta, and mayoral races in New York. The official who wields this weighty gavel is Assistant Attorney General for Civil Rights William Bradford Reynolds.

And, here, the facts will surprise many. The Reynolds record on voting rights enforcement has been remarkably vigilant, albeit not as aggressive as the civil rights groups want. He is much closer to their position on this issue than he is on busing or affirmative action. While Reynolds has talked about his color-blind vision, he has enforced the Voting Rights Act with an eye towards race.

For one thing, he has used his veto authority aggressively. As of July 1985, according to the Washington Legal Foundation, Reynolds had vetoed 110 redistricting plans versus 26 during the Carter administration. When the high number of submissions following the 1980 census is taken into account, Reynolds' rate of objection is comparable to the Carter years. In management terms, Reynolds has preserved remarkable continuity in the staff of the Voting Section. No members of the young conservative Federalist Society here. The long-time head of the Voting Section has survived six years of Reagan.

And at times Reynolds seems to have flirted with mandating additional black districts. This has been duly noted by University of South Carolina law professor Katharine I. Butler who worked for the Voting Section in the seventies. In 1982, she observes, Reynolds objected to a district in Virginia's House of Delegates that he considered too black. So he urged the state to go back to the drawing board and produce "two [districts with] substantial black majorities."

In January, Reynolds approved sweeping regulations that greatly expand his authority to veto districting plans. The new rules, which were applauded by civil rights groups, would incorporate the effects test into his administrative review—even though it is supposed to be confined to courtroom proceedings. Under Reynolds's change, Justice Department attorneys, based in Washington, thousands of miles from the scene, will have much more power to decide whether the city council line should cut behind the railroad track or over by Barney's store. So much for deregulation.

Why does Reynolds support affirmative action when it comes to voting? Part of of the reason is that he may be following the law as he sees fit; or he may be preserving his political capital for other battles he feels are more important; or he may be baffled by the complexity of the Act. Or he is doing it to help the Republicans. "The Administration, it seems to me, is taking a very political position," said Elliott Levitas, now a private attorney. "It wants to separate the urban districts and achieve the Republicanization of the suburbs."

Together but equal

The paucity of black elected officials is not to be taken lightly. A history of disenfranchisement

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unmatched by any other ethnic group means that black politics should always be a moral concern. It is important that more blacks hold office to ensure blacks access to government service, to create positive role models, to send aid to depressed areas. They could help heal a fractured society. Something is still very wrong when blacks make up more than 10 percent of the population, but only 1.8 percent of the nation's office holders.

The question is how to ensure larger numbers of black officials. Racial districting can be a dramatic way to rush blacks into mainstream politics. But such lines are easier to draw than erase.

Other avenues to help blacks gain office are open. A wise and savvy Democratic leadership could do much more to promote blacks in the party hierarchy. Last fall, House leaders shrewdly guaranteed a seat on the House Agriculture Committee to Michael Espy, helping him to become the first black elected to Congress from the rural South since the 19th century. The party could also commit more money to recruit strong black candidates. Most importantly, it could develop an economic agenda that would attract poor blacks and whites.

For civil rights organizations, there are ways to promote black political strength, even black office holding, without resegregating the political process. Instead of jumping to redraw the map after a determination of voting rights abuses, minority plaintiffs could pursue other legal remedies. A culpable town ought to be required to promote door-to-door registration, or to provide mobile bus service on election day.

Creating black districts is a limited answer, best resorted to in only the worst cases. One-third of all black mayors, after all, are elected from white majority towns. It is a mistake to assume that all of America is Mississippi in 1957, that whites cannot be made responsive to blacks, and that it is better to go it alone than build bridges. That is a strange and sad call from those who rightly promote integration in other aspects of our daily lives.

One way to judge an idea is by the company it keeps. The Republican connection ought to disturb those who carry the banner for civil rights. Racial districting may have become a clarion call for the civil rights movement, but it is also a cause celebre for the conservatives who cheer the willingness of blacks to separate. ■

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MEMO OF THE MONTH

MAY 12.....SCHEDULE OF EVENTS

On May 12th, an aggressive fundraising campaign will be kicked off by a series of special events. These events require a $50 to $5,000 donation (depending on the event) and are designed to enlist the emotional and financial support of the general public in a continuing battle against the plight of the hungry and the homeless. Supporters and co-sponsors of these events include, Motion Picture of Association of America President Jack Valente, actors Martin Sheen and Dennis Weaver, actresses Valerie Harper and Cicely Tyson, District Mayor Marion Barry, Eunice Shriver, Abe Polland, Senators Mathias, Metzenbaum, and Hart.

3:00 p.m. Special celebrity lunch/preview at the Federal City Shelter, 425 Second Street, N.W.....A Ridgewell's catered lunch hosted by the fundraising committee to pay tribute to the hungry and homeless who live there.

5:30 p.m. Fundraising dinner at Dominique's.....Hosted by Mitch Snyder, Martin Sheen, Valerie Harper and Dennis Weaver as well as leadership from both the Democratic and Republican parties.

7:00 p.m. Gala Film Premier of "SAMARATIN-The Mitch Snyder Story" starring Martin Sheen and Cicely Tyson.....Held at the National Theater followed by a "starlight" celebrity reception catered by Ridgewell's in Western Plaza.

[This memo was part of a press release prepared and distributed by the Canzeri Company.]

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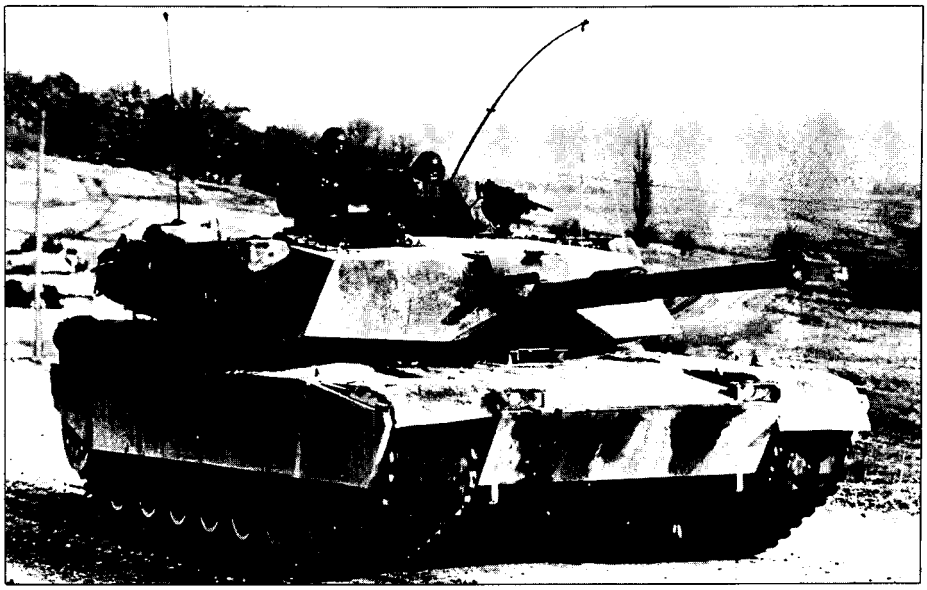

THE FIRST CHRYSLER BAIL-OUT

The M-1 Tank

by Richard Mendel

On a July afternoon ten years ago, Lt. Colonel George Mohrmann sat at his desk on Capitol Hill awaiting a phone call. As head of the Army's congressional liason office, he was ready to deliver a stack of sealed letters to members of Congress announcing the winning contractor in the multi-billion dollar competition to build the Army's M-1 tank.

The two competing contractors, Chrysler and General Motors, offered a clear choice. Chrysler had built its tank around a radically different and unproven tank engine, the turbine; GM had used a more conventional diesel engine. The two tanks had undergone months of head-to-head trials at Aberdeen Proving Ground in Maryland. GM had won.

The Army, it seemed, was not going to risk adding the M-1 to its growing list of overly-sophisticated weapons that cost too much and don't work. "We were sitting there poised to deliver [the envelopes]," Mohrmann recalls. "The decision [to select GM] had been made. We were just waiting for the Secretary of Defense to be briefed."

The call, however, was surprising. The Pentagon told Mohrmann not to deliver the letters. The next day, Defense Secretary Donald Rumsfeld ordered a whole new round of competition. A week later, Rumsfeld turned the M-1 tank program upside down. He mandated that the tank be redesigned to incorporate the turbine engine. Four months later the award—which promised to generate $20 billion in sales—went to Chrysler, and the Army was on its way to getting a weapon suited more for a paved interstate than a battlefield.

There was another mysterious element to Rumsfeld's decision. He not only changed the tank's design to suit the turbine engine; he also demanded, against the strong advice of Army experts, that the tank incorporate a new main gun. Instead of the proven 105 mm gun selected by the Army, Rumsfeld moved forward with a controversial new 120 mm gun that was not only more costly, but more dangerous for soldiers to use. The new gun, together with the turbine engine, would increase the M-1's price by over a billion dollars.

Richard Mendel is a staff writer at MDC, Inc. in Chapel Hill, N.C. He is co-author with Richard Stubbing of The Defense Game, *published last September by Harper & Row.*
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This isn't another story about the Army's incompetent bureaucracy. "You can blame the Army for a lot of things," says Anthony Battista, a staff member of the House Armed Services Committee, "but not for the troubles of the M-1." Rather, it's a story of how outside factors can overwhelm military considerations in the Pentagon decision-making process, how narrow interests—in this case the ailing Chrysler Corporation and, by a strange twist, the U.S. Air Force—can outweigh the need for a reasonably-priced and effective military. The M-1 was never just a weapon; it was also a bail-out package.

Paperwork brigade

When the M-1 program began in 1972, the Army had already spent the better part of a decade and well over half a billion dollars trying to replace its M-60—with nothing to show for the effort. The MBT-70 program had been launched jointly with West Germany in 1963 to standardize the NATO tank force and take advantage of the latest technological gadgetry. With the two nations unable to cooperate, the program floundered for years and finally ended in 1970 after producing just a half dozen tanks. The Army then tried the XM-803, but like the MBT-70, this tank soon sank under the weight of its own sophistication. In late 1971, the House Armed Services and Appropriations committees killed the program.

Meanwhile the Soviet Union was producing new and impressive tanks at an alarming rate. The U.S. Army was desperate, and facing such intense pressure from Congress that it agreed to try something new: good old-fashioned competition. Set a firm price, cut the red tape, and let the industry engineers make it work.

The approach sounds simple, but it was actually a major departure from typical weapons development. A service usually spends years developing several hundred pages of formal performance requirements and systems specifications which it then circulates to defense contractors. The contractors respond with detailed engineering designs, and the service awards the proposal that looks best.

The winning proposal is then converted into an equally voluminous development contract, which must be constantly updated as production difficulties arise and as the service changes its requirements. Each change is renegotiated with the contractor, resulting in cost overruns and schedule delays. Using this system, the Army gave GM the contracts for the MBT-70 and XM-803 before a single tank had been built.

But for the M-1, the Army replaced this paperwork brigade with one remarkably simple document. Aside from some basic standards for size, weight, and reliability, there were essentially no performance requirements at all. Instead, the Army offered only a prioritized list of 16 performance categories, such as crew survivability, gun accuracy, and speed. The Army simply asked that each tank cost no more than $507,000 in 1972 dollars, and that only proven hardware be used. Each bidder would have to design, develop, and actually build a prototype M-1. The final award would be based not on paper promises, but on actual field tests conducted by the Army.

It was a simple message. "The Army told us, 'You're the experts. You trade off and give us the best tank you can for the money,' " remembers Lou Felder, who was with the Army's MBT-70 project office and later became Chrysler's M-1 project manager. Even though his Chrysler tank came in second, Felder says "the initial competition for the M-1...[was] probably the best development in the history of the Army."

Scalding the troops

When the Chrysler and General Motors entries first met at Aberdeen, the Army found that it had received two very good tanks, both exceeding the Army's performance expectations. But it soon became apparent that the one built by GM was better. The Army tests showed General Motors's tank had superior armor protection, better fire control and turret stabilization systems (for the M-1's fancy "shoot on the move" capability), and a more sound overall design. Meanwhile, GM's price bid for M-1 development and initial production was $208 million compared to $221 million for Chrysler. "As a corporation, GM was hard to beat," says Major General William R. Kraft, who helped supervise the M-1 competition. "Chrysler seemed to have some trouble getting organized for this program," General Kraft said. For instance, Chrysler hadn't completed assembling its prototype and had to compete without a finished turret.

More important, though, was the engine choice: diesel or turbine. The diesel engine employed by GM represented a significant improvement over that used in the earlier generation M-60 tanks. Using an innovation in variable compression pistons, the new diesel could squeeze out twice the horsepower with only two-thirds the weight. Although there had been serious difficulties with the new technology when it was first

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To sell more AWACs to Europe, Secretary of Defense Rumsfeld outfitted the M-1 with a German gun that was inaccurate, increased the tank's vulnerability, and added more than $1 billion to the cost of the program.

employed in the 1960s, engineers had years of experience with it by 1976.

Theoretically, the turbine used by Chrysler offered a number of advantages over diesel: it was lighter, quieter, less smoky, and, with fewer moving parts than the diesel, potentially more reliable. Chrysler chose the turbine amid a growing sense that it might well be the engine of the future.

But the turbines had serious drawbacks. Unlike diesel engines, all of the air required to run a turbine must be filtered. That isn't a problem for an airplane or a helicopter flying hundreds of feet off the ground, but it can be disastrous for a tank on a dusty battlefield. Designing adequate filters would be a tremendous engineering challenge.

The second problem was exhaust. Turbine engines emit far more exhaust than diesels. And at 2,000 degrees this exhaust itself becomes a lethal weapon. It means infantry soldiers cannot walk behind the tank—a time honored practice that helps protect both the tank and the soldier—without being fatally scalded. The hot exhaust also makes it far easier for an enemy to detect the M-1 on the battlefield with simple infrared sensors.

Furthermore, standing idle the turbine uses at least twice as much fuel as the diesel, even though they both offer equal horsepower. Tanks tend to spend up to 80 or 90 percent of their time idling. The high fuel consumption causes tactical problems as well, since fuel trucks have to stay close to the tanks, either by moving with them into battle, or by forcing the tanks to hang back.

The biggest factor pushing the Army to choose diesel, however, was fear. After seeing its last two tank development programs canceled, the Army was reluctant to saddle this third program with an unproven engine. "The turbine really wasn't a mature engine at that point," says General Kraft. "It's just a conservative instinct to go with what you know."

The big pitch

By lunch time on July 20, only the stamp of the defense secretary was needed to give GM the award. The Army was so confident of the decision that it began notifying reporters that the award would be made by the end of the day. It wasn't.

At 1:30 that afternoon, Army Secretary Martin Hoffman brought a team of army generals into the office of Deputy Defense Secretary William Clements to brief Clements and Malcolm Currie, the director of defense research and engineering, on the results of the source selection. Given that Hoffman was the official "Source Selection Authority" responsible for making the M-1 award, Clements and Currie were expected to rubber stamp the decision. In fact, Currie had signed a memo that morning okaying the Army's request to name a winning contractor and move toward production.

Instead, Clements and Currie lashed out at the selection and strongly questioned the Army's choice of the diesel engine. Clements argued that the entire source selection should be re-evaluated. When Hoffman and Clements brought their respective arguments to Donald Rumsfeld later that afternoon, Rumsfeld ordered a 24-hour delay to decide whether or not to proceed with the award.

Army leaders were surprised and angry. The tank for which they had waited almost 15 years was suddenly in danger. Following a brief dinner break, virtually all the top Army leaders, including Hoffman and Vice Chief of Staff Walter Kerwin, gathered in the office of Assistant Secretary for Research and Development Ed Miller to talk over what happened and plot a strategy. They worked until 4 a.m. writing memos on the validity of the testing process and the need to move forward with the program. "The whole Army mobilized against the delay," recalls Miller.

At 7:30 the next morning, Hoffman met one last time with Rumsfeld to try to persuade him to make the award, but without success. According to Miller "we stayed up all night writing rebuttals. I don't even think they read the stuff." Instead, Rumsfeld announced a four-month delay in the M-1 program.

Within days, GM was asked to submit a brand new proposal incorporating the turbine engine. (Chrysler was also asked to submit a design in-

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cluding a diesel engine, but it was never seriously considered.) As Ed Miller puts it, "It became increasingly clear that the only solution which would be acceptable to Clements and Currie was the turbine. . . . It was a political decision that was reached, and for all intents and purposes that decision gave the award to Chrysler since they were the only contractor with a gas turbine." On November 12, 1976, the Defense Department awarded the contract for the $20 billion program to Chrysler.

Why did Secretary Rumsfeld overturn the Army's recommendation and choose Chrysler and the turbine instead? At the time, Rumsfeld justified the decision as neccessary to standardize key components of the M-1 with the emerging Leopard II tank of West Germany. It's true that the standardization agreement reached with West Germany opened the door for use of the turbine engine several years in the future, but that was at Rumsfeld's request. The Europeans disliked the turbine, had no intention of using it, and only agreed to consider it to appease Rumsfeld. When Robert Parker, then principal deputy director for research and engineering, described the M-1 decision recently, he spoke not of standardization nor of any performance analysis. (Rumsfeld's staff hadn't done any independent analysis of the tank engines.) Instead he explained the decision this way: "Each of us in a position of authority sometimes feels our judgment is what we're being paid for. Bill Clements is a hard-headed businessman who has some pretty strong beliefs. And he just felt strongly that we should forge ahead with the turbine." Clements, according to Parker, just felt in his gut that the turbine was the way to go.

But others familiar with the selection process say there was another reason. Despite its highly lucrative M-60 tank business, Chrysler had suffered $52 million in losses in 1974 and $260 million in 1975. "Chrysler was already beginning to feel the effects of problems that would become clearer in 1979 and 1980," admits Lou Felder, then with Chrysler.

General Motors, by contrast, was faring quite well in the mid-1970s. Though affected by the industry-wide lag in auto sales in 1974-75, GM still managed to turn profits of more than $2 billion. Unlike Chrysler, GM was not at all dependent on government business, which accounted for only about 1 percent of its sales, compared to 5 percent for Chrysler. Chrysler's tank division represented the only money-making operation in the corporation. Because of the cost-plus system of defense procurement, a contact would practically guarantee a considerable future profit. "General Motors really didn't care about the tank business," recalls one government defense analyst. "But for Chrysler it was a matter of life and death." In fact, it had taken a special plea from the Pentagon in 1972 to convince GM even to bid for the M-1 program.

Chrysler executives pulled out all the stops in their attempts to influence the M-1 award. On June 17, 1976 Chrysler chairman John J. Riccardo visited the White House to meet with William Seidman, the assistant to the president for economic affairs and executive director of the powerful Economic Policy Board. Seidman was a close friend of Gerald Ford, one of a select group of advisors with personal access to the president.

According to Seidman, Riccardo's agenda for the meeting was simple: he wanted assistance for Chrysler. "The Chrysler people came in looking for help," recalls Seidman. "And when we looked into it we saw that they were in some trouble. We wouldn't give them any direct aid, but we did look to help them out within the regular decision process." With the M-1 award only weeks away, the direction of this help was obvious. "We went and talked to the people in the Pentagon," Seidman recalls. "We wanted to find out whether Chrysler was going to win that contract. We let them know that there was a problem [at Chrysler] and that Chrysler was in for help." Seidman insists that "we didn't order anything. We just made sure that they were aware of the problem."

A week after the meeting, Rumsfeld made the decision to push the turbine engine in the NATO standardization talks.

Following the Riccardo-Seidman meeting, Chrysler continued its lobbying effort, right up through the day of the scheduled award to GM. That day, Chrysler lobbyist John Keegan hand-delivered a letter to William Clements. In the letter, Chrysler, which should not even have known the results of the source selection, threatened to issue a formal protest if the Army went through with the award to GM.

The Army Edsel

The M-1 contract provided a desperately needed financial boost to Chrysker, creating $60 million annually in profits in a period when Chrysler's automotive operations were consistently losing money. The benefits became even clearer in 1982, when Chrysler sold its tank business to General Dynamics, netting $336 million in the midst of its most serious financial crisis. The

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Chrysler executives pulled out all the stops in their attempts to influence the M-1 award. President Ford's economic affairs adviser called the Pentagon to "let them know that there was a problem [at Chrysler] and that Chrysler was in for help."

award ranked alongside the 1979 federal loan guarantees as a key factor in the company's remarkable turnaround. "The sale gave them the cash they needed to get over the tough times and develop their new product lines," says one former Chrysler official now with General Dynamics. As defense analyst Paul Hoven says, "If you're looking at the financial success of Chrysler and Lee Iacocca, you're probably looking at a tank contract."

Today, Rumsfeld and Hoffman deny that helping Chrysler was a factor in the decision. In fact, Hoffman claims, "the financial condition of Chrysler consistently cut against them in the competition." Rumsfeld adds that "those are the kinds of things that are said by people who are on the fringe [of the decision-making process], who don't like a decision and figure that something of this sort must be behind it."

But in reality, politically motivated contract awards have been a fact of life for decades. Perhaps the most famous case involved the TFX aircraft in 1962, when Robert McNamara awarded the $6.5 billion program to General Dynamics—which was financially ailing and politically well-connected—after a military evaluation team had four times rated Boeing's plane superior. One White House insider admitted later, "Bob McNamara was instructed on what to do about the TFX. He was told what to do. . . [and] he was a good soldier."

More recently, political factors weighed heavily in the award of the infamous DIVAD anti-aircraft gun to Ford Aerospace and Caspar Weinberger's decision to buy Lockheed's C-5B transport instead of McDonnell Douglas's C-17, which was strongly favored by the Army and Air Force. In each case the award was given to the contractor in the greatest financial difficulty—not the one with the best weapons system. More such instances are likely to be seen in the future. A recently retired Army officer put it this way: "If you think you can maximize socio-political factors without exacting a major penalty in military performance, why not?"

Chrysler, of course, had every right to lobby Seidman, just as Seidman had good reason to make the Pentagon officials "aware" of Chrysler's problems. The health of a large corporation employing thousands of people is a serious matter. In this case, however, the cost of satisfying these non-military concerns was high. When the M-1 began rolling off the assembly line in 1980, the Army found that the turbine engines were seriously deficient. The air filter system, as feared, had not yet been perfected and the engines broke down at an alarming rate. "We were still having tremendous problems [in the late 1970s] with the turbine," says General Donn Starry. "We had to completely redesign the air intake system." Ultimately, the Army had to slow down its production of the M-1, and spend hundreds of millions of dollars to implement needed changes. The tank that was once described as "the best procurement in Army history" had become, as *Barrons* put it, "The Army Edsel."

The only logical choice

The Chrysler bail-out only explains a few hundred million dollars of the extra costs involved in building the M-1. Another bail-out explains the rest. This one involved the M-1's main gun and a prized aircraft program of the U.S. Air Force.

Both General Motors and Chrysler initially proposed using a 105 millimeter gun on the M-1. While the 105 mm was the same gun used on the older M-60, a new generation of more powerful ammunition had just been developed which vastly increased the gun's effectiveness. A trilateral committee of American, British, and West German experts in 1975 unanimously recommended keeping the 105 millimeter gun for the M-1. "We were making so many improvements to the ammo for the 105 that it looked like that gun could kill anything the Soviets had for a pretty long time," says Ben Schemmer, editor of the *Armed Forces Journal*. But Donald Rumsfeld saw it differently. In June 1976, Rumsfeld's negotiators in Europe agreed to West Germany's request that instead of standardizing around the American 105 millimeter gun, we would modify the M-1 to handle a new German 120 millimeter gun.

From a military perspective, Rumsfeld's deal

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made little sense. While the 105 mm gun was a proven weapon, the 120 mm gun was less accurate, added greatly to the program's costs, and wouldn't be ready for two or more years.

In order to keep the M-1 program on schedule, the Army would have to design a "hybrid" turret that could handle the 105 mm gun in early production and the 120 mm gun later on. General Robert Baer, the Army's M-1 project manager, testified that this bigger turret—which made a bigger target for enemy anti-tank weapons—would reduce the overall effectiveness of the tank by as much as 10 percent.

In addition, the 120 mm gun was more dangerous to use than the 105 mm gun. Because its shells lacked the protective metal covering found on 105 mm rounds, the ammunition was much more likely to explode prematurely and tended to leave burning residue in the breech, a major hazard for the gun loader. The Army suffered a woeful experience with similar ammunition in Vietnam.

The 120 mm gun did offer a bigger bang: because of its greater mass, the 120 mm shells could travel further and with more force than the 105 mms. These larger shells, however, greatly limited the ammunition load. Probably a tanker's worst nightmare is to run out of ammo on the battlefield. "It was just a personal opinion of guys like me, who'd spent much of our lives inside tanks," notes General Kraft, "that we'd rather have more bullets than a bigger whack." Furthermore, the Army felt strongly that the 105 could beat anything in the Soviet force. Writing in March 1976, Currie concluded: "U.S. evaluation of the tank guns... further confirms the adequacy of the 105 mm and indicates that need for a larger gun than 105 mm in the future is very unlikely. The major considerations...weigh so much in favor of the 105 mm system that, in our view, there is no other logical choice."

Yet just three months later, Currie's boss, Rumsfeld, agreed to standardize around the 120 mm gun. Again, the Pentagon said it was in the name of NATO compatability. But the decision actually reduced the level of NATO uniformity, since the vast majority of tanks in Europe already used the 105 mm gun.

So why did Rumsfeld agree to standardize on the 120 mm gun? Asked that question, many military experts point to the skies—to the airplane known as AWACS.

In their final planning meetings for the M-1 contract award in July 1976, Army officials were joined on several occasions by a man wearing a blue uniform, Richard Bowman, a general with the U.S. Air Force. Serving as director for European and NATO affairs in the Pentagon's international security affairs division, Bowman took an unusually active interest in the M-1 program.

"The underlying politics was Air Force," says Anthony Battista, "particularly AWACS." AWACS, the Air Force's airborne warning and control aircraft, had originally been designed to coordinate U.S. air defenses against possible attacks from Soviet bombers. But when the Anti-Ballistic Missile treaty was signed, AWACS suddenly found itself without a mission: why did we need this expensive radar plane to stop Russian bombers if we weren't going to stop their missiles?

Instead of canceling AWACS, however, the Air Force simply changed the AWACS's mission. Instead of defending the U.S. against strategic bombers, AWACS was supposed to assist tactical fighter planes in Europe and act as an overall battlefield control station. (This mission was questionable as well since AWACS almost certainly turn off their radar periodically—the key to battlefield control—to avoid being destroyed by enemy missiles.) With General Bowman leading the way, the Air Force began an intensive effort to sell AWACS to our allies, particularly West Germany. As one congressional staffer put it, "General Bowman's only job was to sell AWACS to NATO. If he wanted to become a three-star or a four-star, he'd better see to it that that happened." But the Germans seemed to be giving the Air Force a cold shoulder, apparently reluctant to buy yet another U.S. weapon (they had just agreed to a major purchase of F-16s) while the U.S. consistently neglected to purchase German-designed arms. In late March 1976, Carl Damm, a member of the German Bundestag, delivered a message to his counterparts in the U.S. Congress: "To speak quite frankly.... I personally do not see any possibility for the Federal Republic of Germany to take part in the AWACS program unless the United States of America spends a corresponding amount on German tanks. This would be a fair deal, a two-way street."

While the Germans had few illusions that the U.S. Army would abandon its M-1 program entirely in favor of their Leopard II tanks, they did hope the U.S. would at least adopt the 120 mm gun. In fact, it was essential to the German Army's own strategy for lobbying the Bundestag. "The German [Army] was having difficulties selling the expense of the Leopard II to the Bundestag, and the tank's big selling point was

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the 120 mm gun," explains one former Army officer. "Unless they could get the U.S. to agree with the threat and go to the 120, they were in trouble."

So they turned up the heat on Rumsfeld. "Rumsfeld had taken some political shots from the Germans," says then Army Secretary Martin Hoffman, "and he wanted to do something—the 120 gun was paramount." The need to sell AWACS could only add to the pressure.

Throughout 1976 and 1977, awaiting a final commitment from the U.S. to put the 120 mm gun into production, the Germans continued to hold back their support for a NATO purchase of AWACS. Finally, around the same time the Carter administration finally agreed to the 120 mm gun in early 1978, the AWACS purchase received NATO funding, with West Germany leading the way. Ultimately, NATO purchased a total of 18 AWACS for well over a billion dollars. More important in the eyes of the Air Force, NATO's involvement in the program served to quell congressional opposition to AWACS and ensure continued funding.

While the Air Force was delighted with the deal, it was the Army that paid the price. In addition to the penalties of poorer accuracy, diminished ammunition stowage, and increased vulnerability, the switch to the 120 mm gun added more than $1 billion to the cost of the program, mostly for the purchase of new ammunition.

Political lemon

Today, many of the M-1's problems have been solved. Even its most fervent critics acknowledge that it is a better tank today than the trouble-plagued lemon that emerged several years ago. But despite its progress, the M-1 still bears many scars from its early development. Excessive fuel consumption rates have limited the tank's range and required added investments for fuel and refueling vehicles; maintenance costs for spare parts are reportedly ten times higher than those for the M-60, and hot exhaust has placed permanent constraints on the M-1's battlefield usefulness.

Looking back on the M-1 episode, Ed Miller is resigned and a bit cynical. "We held an honest and above-board competition for three years. We had extensive data and test results. We had binding price bids for full-scale engineering development and for the initial production. We were enormously upset by the decision to give the award to Chrysler and switch guns, but we went through with it." After all, Miller adds, "that's politics." ■

THE WASHINGTON MONTHLY

Journalism Award

for November 1986 is presented to

Alan Finder
The New York Times

Donald Trump was able to do in six months what New York City has been unable to do for six years—fix up the famous ice skating rink at Rockefeller center. Finder discusses the forces that prevent New York City—and many other governments—from completing public works projects efficiently, including anti-corruption laws that restrict the use of general contractors, bidding procedures that let shoddy builders win, and overly detailed construction specifications that constrain builders and cause delays. He shows how Trump, as a private developer, was able to avoid some of those problems, and discusses reforms that might improve the city's construction management.

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation.

The award for stories published or aired in December will be announced in the April issue. Nominations will close February 15. Nominations should be accompanied by two copies of the story or stories.

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WHO'S WHO in the Administration

Our only mistake in suggesting that **Alton Keel**'s appointment to the National Security staff last August seemed to have been a reward for his help in guiding the Rogers Commission away from investigating the White House involvement in the Challenger explosion was that we underestimated the extent of the administration's appreciation. His recent selection as ambassador to NATO—over such prominent contenders as **Patrick Buchanan**, former Senator **Charles Mathias** and **Kenneth Adelman**, director of the Arms Control and Disarmament Agency—shows that Reagan was grateful in the extreme....

William Casey and **Ronald Reagan** aren't the only members of the administration to have health problems. **Caspar Weinberger**, we are told, has a serious bone disease, and **Malcolm Baldrige** is said to have cancer ....

The appointment by the special three-judge panel of **Lawrence E. Walsh** as independent counsel to investigate the Iranian arms sales has not been met with the proper amount of skepticism. Walsh has longstanding ties to the Republican party. He was counsel to former New York Gov. Thomas Dewey, and he chaired an American Bar Association committee that gave its approval to President Nixon's nomination of the incompetent **G. Harrold Carswell** to the Supreme Court. Moreover, for nearly 20 years Walsh was a director and lawyer for a pharmaceutical company whose prescription drugs allegedly caused birth defects and cataracts. His defense of the company was described by one plaintiff's lawyer as "deplorable and vicious." He was also the lawyer who persuaded **Richard Kleindienst**, when Kleindienst was Nixon's attorney general, to grease the way for an antitrust settlement that was highly favorable to ITT....

Will incoming National Security Adviser **Frank C. Carlucci** remake the NSC into the arbiter of policy battles for which it was originally set up? Not if his appointment of **Fritz W. Ermarth** as his senior expert on relations with Moscow is any indication. A former colleague familiar with Ermarth's work during a two-year stint at the NSC during the Carter administration recalls Ermarth as "a hawk...who never did find out how to operate" to create a consensus for improving U.S.-Soviet relations....

An anecdote conveyed to us by Mark Feldstein of WUSA-TV in Washington provides evidence that modesty and diplomacy were not **Oliver North**'s strong suits. In 1983, Feldstein, then a reporter with WTSP in Tampa, Florida, had this run-in with North:

"I was returning from a vacation in Central America, riding on an airplane that was flying from San Salvador to Miami. As I started to fall asleep, I heard a man with a loud voice in the next row bragging about his connections to **Alexander Haig**. I listened further, and soon began to scribble notes on an airsickness bag.

"It turned out that the man with the loud voice, then-Major **Oliver North**, was conducting secret negotiations with the government of El Salvador on behalf of President Reagan. North was traveling with White House envoy **Richard Stone** and another National Security Council staff member.

"On the flight the men were laughing and celebrating. They had just convinced El Salvador's president to hold new elections, and now believed that this would force a reluctant Congress to approve more aid to the Salvadoran government.

"North chortled that he had arranged things so that it would appear the Salvadorans had thought up the idea. He read aloud a statement that the White House planned to release praising the Salvadoran government for its courageous decision. North boasted that he had carefully worded it for "domestic political consumption." The result: Congress would now send an additional $60 million to El Salvador. Meanwhile, I had inadvertently stumbled across a global power play in the coach section of the plane.

"When I broke the story the next day, it upset and embarrassed officials both in Washington and San Salvador. But somehow, Oliver North remained unscathed. Richard Stone, the White House envoy, got most of the blame; he was reportedly chewed out by President Reagan for allowing the story to leak out, and his career as a diplomat soon came to an end. Yet it was North who had done most of the blabbing. Despite it all, it was the beginning of North's ascent to power."

This anecdote and others of similar character that we have heard about Col. North make it hard to believe that he could have resisted telling someone in authority—**Donald Regan**, Reagan, or perhaps **George Bush** and his staff, who were pushing especially hard for aid to the contras—about his skill in killing two birds with one stone, taking care of Iran and the contras with his arms scheme. This is the kind of thing few subordinates can resist bragging about to the boss, and the evidence does not suggest that Col. North is one of those few....

The selection of former Senator **John Tower** to investigate the Iran-contra arms deal seems a bit strange to those who know that Tower's brother-in-law, **Sam Cummings**, is one of the world's leading arms dealers....

In

WHITE HOUSE

Principal deputy Press Secretary—**Marlin Fitzwater** was press secretary to the Vice President.

Out

AGENCIES AND COMMISSIONS

Member, Federal Reserve Board—**Henry C. Wallich**.

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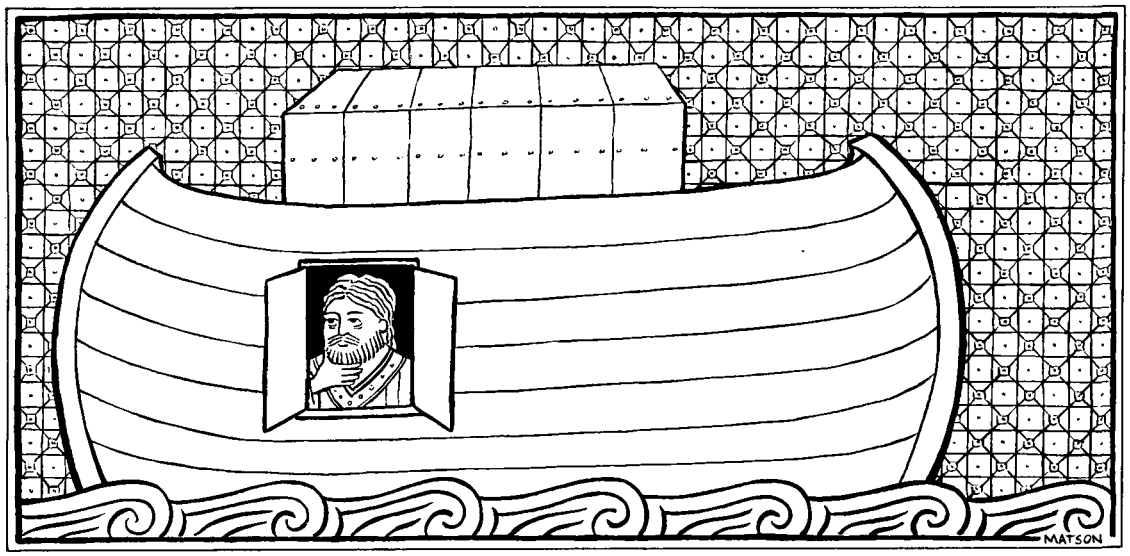

WHAT *DID* NOAH DO WITH THE MANURE?

And other burning questions of Creation Science

by Jack Hitt

Remember the scene in the movie, "Inherit the Wind," where the Darrow character wickedly taunts the fundamentalist Bryan, asking him if he truly believes God condemned the snake to crawl forever on its belly? Yes, says the unshaken believer. Well, needles the lawyer, how did the snake get around before that? On his hind legs?

In the old days creationists cringed at being so mockingly bested by the opposition. Today, instead of shrinking, they might welcome such an observation and even dispatch some researchers to investigate the matter.

Very little has changed in the peculiar American clash of religion and science since 1925, when a substitute biology teacher named John Scopes collaborated with a couple of Tennessee pranksters to scare up the first national media circus. The only significant difference is that creationists now insist more vehemently than ever that they are creation *scientists*. It's not religion they want taught, they argue. It's a science that deserves to be taught alongside evolution.

Jack Hitt is a New York writer.

The argument for this "balanced treatment" is now before the Supreme Court and the case should be decided sometime this spring. The case involves a Louisiana law that requires public schools to teach creation science if a course in evolution is offered.

In order to get a fair hearing in the courts, creationists have had to learn to speak secular science. Nowadays they don't talk publicly about the Bible's account of clay and ribs, but proclaim the scientific theory of the "sudden appearance of highly developed forms of life."

In the face of such claims, mainstream scientists have locked arms and become dogmatic. Evolution, they bellow, is not a theory but a fact. And creationism is nothing more than a Trojan horse brimming with Bible-thumpers. Creationists, playing to American notions of fairness and equality, respond calmly that they ask for nothing more than balance.

But is creationism really a science? It's no mystery what science is, at least in the popular conception. It is the development of theories, which are tested by experiments, result in data, are written up and published in journals. Creation science seems to have all of these. In its most

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prestigious journal, the *Creation Research Society Quarterly*, one finds even the lesser trappings so loved by big-time scientists: pompous titles, sesquipedalianisms, Latin words, scientific jargon, even the metric system.

The *Quarterly* certainly looks scientific, with its dignified covers and conservative format, but there is one oddity. Above the volume and year are printed the words "*Haec credimus*," or "This we believe." After that comes the Exodus quotation: "For in six days the Lord made heaven and earth, the sea, and all that in them is and rested on the seventh." Although evolutionists have been known to be just as cocksure, it is peculiar for a scientific journal to publish its conclusions on the cover before anyone has a chance to examine the evidence. But that may annoy only purists.

Since the Supreme Court may soon allow states to force children to learn this science, it is important to glimpse inside some recent issues of the *Quarterly* for a sampler of cutting edge theories and experiments the children may be tested on.

Creation Ecology

In the June 1979 issue, Raymond Bray, who is also president of the Lord's Work, Inc. in Chicago, ponders one of the many problems associated with Noah's Flood, or the "Noachian Deluge," as creation scientists refer to it. According to creation theory, fossils are the carnage left after the waters receded. Since the fossil record is seen as the cornerstone of evolution, the Flood debate looms large in creationist circles.

Bray is confounded by the food problem on the ark. Genesis 6:21 explicitly says Noah carried on board all the food necessary for himself and all the animals. Bray boldly dismisses this statement by God as "an impossibility."

Particularly bothersome, he says, are the meateaters. He acknowledges the popular theory that the women on board nursed the carnivores with the milk of cows, but pooh-poohs it as the stuff of "those who make movies and write fictitious articles about the Deluge."

Maybe, he hypothesizes, a miniature ecosystem existed inside the ark. This theory conquers one problem that seems to haunt him: how Noah and his companions could possibly have shoveled the tonnage of manure out of the ark every morning. Even if they could have, he says, that would have been a "major disaster" because removing the manure "would have broken the cycle of the system, and a large number of the species would have died of starvation and become extinct." Instead, the manure was spread around to fertilize the indoor miniature ecosystem. That could explain why Noah is so often depicted with his face sticking out of the ark's lone window. But clearly, says Bray, there must have been more than one window since Noah was growing food inside. His scientific proof of that assertion? "According to comparatively recent accounts of sightings of the ark on Ararat, there was not just a single window."

Grant R. Lambert, in his June 1983 article, "Was the Pre-Flood Animal Kingdom Vegetarian?" solves the Noachic food problem by proposing that all animals including man were vegetarians before the Flood. This solves the problem of all those meateaters. The superb health of antediluvian man, he says, may also account for those 900-year life-spans they enjoyed.

Creation Oceanography

The team of Dr. E. Norbert Smith, director of the Grasslands Experiment Station of the Creation Research Society, and Stephen C. Hagberg, a graduate student at a Bible College, wondered how saltwater marine life survived 40 days and nights of a freshwater downpour during the Noachian Deluge. They set forth their results and methods in a paper entitled "Survival of Freshwater and Saltwater Organisms in a Heterogeneous Flood Model Experiment" in the June 1984 issue.

For their experiment, they created a saltwater environment by filling a 55-gallon aquarium with

Creationists account for dinosaurs by claiming that they lived side by side with man during a kind of Flintstonian Epoch.

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There is only one problem with this theory, one creation scientist notes. It appears that a miracle is necessary for it to work.

fresh water and adding "Instant Ocean" from the pet store. Into the tank they placed *Artemia nauplii* (sometimes known as "sea monkeys," available on the back of comic books), sea slugs, and a hermit crab. Then they poured in a layer of fresh water and put in one *Carassius auratus* (gold fish), a freshwater snail, and some duckweed these researchers assure us was "collected locally."

Their findings: "At the slow rate of dilution of 0.031 0/00 salinity/hour the fish stopped swimming at 20.3 ± 1.1 0/00 salinity." Another specimen "turned dark just prior to loss of locomotive ability." These results raise "serious questions" about the Deluge, the authors conclude. Maybe, they write, small pockets of salt water remained unmixed and allowed the animals to survive. Like other scientists who keep one eye on their alembic and the other on their copy of *The Foundation Directory* these creationists close with the scientific conclusion most common in the 501(c)3 age: "Obviously, additional research is needed."

Creation Linguistics

Lance B. Johnson, a retired optometrist who now directs Come & See Ministries, describes in "The 'Tangled' Tongue" in the December 1982 issue how he had suspected that dyslexia was directly connected with the Tower of Babel. According to Genesis 11:4-9, the tower was erected for the purpose of reaching heaven. This incurred the wrath of God, who, as punishment, made the builders' speech mutually unintelligible. After the Tower's fall, Johnson argues, people were genetically programmed to read either left to right or right to left. Those who are programmed to read one way, but grow up in a culture that reads the other, wind up being dyslexic.

One day a patient came into Johnson's office to be fitted for glasses and to discuss her dyslexia. It was then, he maintains, that he discovered his proof. In casual conversation she mentioned how odd it was that she had studied Hebrew and had excelled in it. "I nearly fell out of my chair!" he reports. " 'Praise the Lord,' I thought." More proof came later: "Then, to cap it off beautifully, she said her ancestry was Jewish!"

Creation Physiology

If death came with original sin, as Paul says, then the scientific corollary is that nothing in the Garden of Eden could have died until Adam took a bite out of the apple. "What did they eat until then?" wonders John W. Klotz, who is also the director of graduate studies at Concordia Seminary, in the March 1980 issue. If they ate a plant, wouldn't they have to kill it?

In his article, "Is the Destruction of Plants Death in the Biblical Sense?" Kotz says this problem is solved in the Scripture when God blesses man and animals and instructs them to "be fruitful and multiply." God didn't tell the plants to "be fruitful," so "the blessing added in the account of the creation of animals sets them apart from the plants." Klotz also adds that since the nucleus of a plant cell hugs the cell wall, while animal nuclei kind of bob around in the middle, eating plants "may not have involved 'death' in the Biblical sense of that term."

Creation Cosmography

Some creation scientists argue that the Flood resulted from the collapse of a massive amount of water suspended high in the atmosphere, sometimes called the "vapor canopy." David W. Unfred, who is also director of external studies at Christian Heritage College, hypothesizes in a September 1984 article, "Asteroidal Impacts and the Flood Judgment," that the postdeluvian detritus of this canopy could explain most of what is hurtling through space. "It is possible," he writes, that the "comets, asteroids, meterorites, and outer planetary moons (and planets?), excluding the uniquely created Earth and Moon, are remnants, a reminder, of the pre-Flood 'waters above.' "

Gary L. Johnson sets forth a far more detailed

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explanation in his September 1986 "Global Heat Balance with a Liquid Water and Ice Canopy." According to his calculations, the canopy consisted of "large water globules at about 2 km altitude over equatorial regions and large ice fragment clouds at about 2200 km altitude over the polar regions." This two-tiered canopy, he says, may explain the peculiar climate after the Creation.

At first the Earth was warm, with no fluctuations in temperature. Why? "Adam and Eve apparently did not need clothes (Genesis 2:25) for comfort, indicating a rather narrow temperature range." Moreover, it never rained until Noah, since rain is not mentioned in the Bible until then. Johnson has more proof. If "rain occurred before the Flood, the rainbow would have occurred also and would not have been useful as a sign."

At the time of the Flood, Johnson argues, the water globules burst, yielding the 40 days and nights of rain. The ice canopy remained. Meanwhile the world repopulated until the collapse of the ice canopy. This would have "buried the mammoths and permanently changed the climate of the polar regions," the source of what evolution scientists call the Ice Age.

The radical decline in the earth's average temperature that followed, Johnson writes, "would certainly have destroyed any remaining dinosaurs." Since creationists believe Earth is only about 6,000 years old, they account for dinosaurs by claiming that they lived side by side with man during a kind of Flintstonian Epoch that ended after some cataclysm—possibly the collapse of the ice canopy described here—destroyed the large beasts.

There is one problem with this two-tiered canopy theory, the author notes: "It appears that a miracle is necessary for any canopy model, either to hold the water up or to get it down without destroying the earth."

Creation Hyetology

Everett H. Peterson, whose only mentioned credential is his address in San Jose, also grapples with the problem of there being no rain until Noah. How did the plants and animals and the Earth get water? he asks in "How the Flood Altered the Earth" in the September 1981 issue. "An answer to this question is found in a recent article in *Popular Science* magazine which details a method of raising vegetables indoors," he says.

The *Popular Science* article explains that if you lay out pea gravel with pine bark over it in a watertight container and keep the gravel wet, the pine bark will suck the water up toward the plants through a capillary action. Therefore, the plants' roots are watered from below instead of from above. Applying this interdisciplinary discovery, the author proposes that God had "pipes" running from the "Fountains of the Deep" (mentioned in Proverbs 8:28) up to earth to water the land.

But the Bible mentions "mists" as well, Peterson notes. How were these made? Simply by capping a few of the pipes with "nozzles." And why would the Earth need mists? Because, as the *Popular Science* article points out, despite the capillary action, the surface level of the soil in the pea-gravel bucket will dry out. Hence, the mists are to keep the topsoil damp. Also, the pipes must have had "shut-off valves," since you wouldn't want the water to run continuously. "The construction and operation of the valves is a mystery," he writes, "but they probably were operated by heat."

With such a system in place, concludes Peterson, it would have been easy to inaugurate the Flood. God simply "crushed" about a "1,000-foot wide, 25,000-mile long and a three-mile thick" area, what is now the Atlantic. This burst the Fountains of the Deep. Yet, there still had to be more holes for God to ventilate enough water for "960 consecutive hours" (40 days and nights). So: "He poked, as with an oversized ice pick, millions of holes through the three-mile-thick ocean floor."

How much proof does the author offer for his theory? Well, none really. But he adds, "The deep seas give up their secrets reluctantly." ■

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Photo: The New Hampshire Sunday News

We were so eager to show Edmund Muskie's unstable side that we were used by Richard Nixon

THE STORY THAT STILL NAGS AT ME

by David Broder

The snow was cascading down that Saturday morning in Manchester, New Hampshire, when Senator Edmund S. Muskie headed toward the offices of the *Manchester Union Leader* for his first scheduled event of the day. Like much in modern campaigning, this "event" was designed more for the press and cameras than for the citizenry. Fewer than a hundred hardy campaign workers and casual passersby, stamping their feet in the snow, joined the newspaper's employees watching from windows.

Ed Muskie was the front-runner in the 1972 New Hampshire presidential primary, so when his press aides alerted reporters staying at the Sheraton-Wayfarer in nearby Bedford that Muskie would go to the *Union Leader* to reply to attacks by publisher William Loeb, they were guaranteed that this was one "media event" that would draw heavy coverage.

Hands jammed into his overcoat pockets and his head bent against the snow, Muskie looked as if he might be having second thoughts. But for us reporters trailing him, the setting and timing were perfect. It was early in the day; we would have plenty of time to file for the early Sunday deadlines. The event would be a natural lead-in to our Sunday wrap-up pieces that would summarize the New Hampshire situation nine days before the primary. Loeb had been giving Muskie the same brutal front-page editorial "treatment" he had given other moderates and liberals in both parties who appeared to threaten the publisher's favored right-wing candidates. In confronting him, the senator from Maine was symbolically confronting the frustrations that had turned New Hampshire from an expected easy triumph into an exhausting, embittering struggle.

The human factor is always the least predictable element in covering politics. That is why the beat is so fascinating. Under the pressure of campaigns for high office, people react in ways that are always revealing and often unexpected. In this case, Muskie's strategists wanted him to show indignation and righteous wrath to regain the offensive in what they saw as an eroding effort to hold off the challenge of his major rival, Senator George McGovern. They focused on the impact of two *Union Leader* editorials: one concerned an alleged derogatory comment by Muskie about the important French-Canadian voting bloc, the other impugned the behavior and character of the candidate's wife.

I described Muskie's dramatic reaction:

> With tears streaming down his face and his voice choked with emotion, Senator Edmund S. Muskie (D-Maine) stood in the snow outside the *Manchester Union Leader*

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Excerpted from the forthcoming book Behind the Front Page *by David S. Broder to be published by Simon & Schuster.*
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this morning and accused its publisher of making vicious attacks on him and his wife, Jane.

The Democratic presidential candidate called publisher William Loeb "a gutless coward" for involving Mrs. Muskie in the campaign and said four times that Loeb had lied in charging that Muskie had condoned a slur on Americans of French-Canadian descent.

In defending his wife, Muskie broke down three times in as many minutes—uttering a few words and then standing silent in the near blizzard, rubbing at his face, his shoulders heaving, while he attempted to regain his composure sufficiently to speak.

The story—accompanied by a photo—ran under a four-column headline as the off-lead of the Sunday *Washington Post* and continued for 23 paragraphs inside. David Nyhan's story, which described Muskie as "weeping silently," was played even more prominently on the front page of the *Boston Globe*. The *New York Times* ran a photograph on page one but relegated the story to page 54, perhaps because reporter James M. Naughton cast his story around Muskie's denunciation of Loeb and mentioned the tears and broken speech only once, in the sixth paragraph. The *Washington Star* used a UPI story on page two that noted in the eighth paragraph that Muskie was "visibly shaken," but offered no further details.

Saturday night, CBS News had an arresting clip of the event, which Roger Mudd introduced by saying that Muskie, after denouncing Loeb, "suddenly became emotional and found it difficult to continue." The screen was filled with Muskie's face, his features contorted.

Watching it on a weekend visit home in Washington, political reporter Jack Germond, then with Gannett's Washington bureau, instantly decided to fly back to New Hampshire because, he said, "I knew something was happening."

Indeed it was. Within 24 hours, Muskie's weeping became the focus of political talk, not just in New Hampshire, but everywhere the pattern of the developing presidential race was discussed. His tears were generally described as one of the contributing causes of his disappointing showing in the March 7 primary. Muskie beat McGovern by a margin of 46 to 37 percent, but his managers had publicized their goal of winning at least 50 percent of the New Hampshire Democratic vote. Underdog McGovern claimed that the results showed Muskie's weakness and his own growing strength. Muskie never recovered from that Saturday in the snow.

In retrospect, though, there were a few problems with the Muskie story. First, it is unclear whether Muskie did cry. He insists he never shed the tears we thought we saw. Melting snow from his hatless head filled his eyes, he said, and made him wipe his face. While admitting that exhaustion and emotion got the better of him that morning, the senator believes that he was damaged more by the press and television coverage of the event than by his own actions.

Second, it is now clear that the incident should have been placed in a different context: Muskie was victimized by the classic dirty trick that had been engineered by agents of the distant and detached President Nixon. The Loeb editorial that had brought Muskie out in the snowstorm had been based on a letter forged by a White House staff member intent on destroying Muskie's credibility. But we didn't know that and we didn't work hard enough to find out.

Mt. Muskie

To understand how such slip-ups happen, one should understand the work habits and psychology of reporters. It is not an accident that we refer to "news stories" as the basic ingredient of the news. Reporters are essentially storytellers in the narrative tradition. Whether we acknowledge it or not, we constantly devise the scripts we think appropriate for the events we cover.

Explicitly in my mind and, I think, implicitly in the *Post* story I wrote from Manchester, there was a specific context into which the Muskie performance fit: the unraveling of a presidential front-runner's campaign.

The fourth paragraph of my story said Muskie's appearance at the *Union Leader* "was designed to counter a threat to his support in the March 7 presidential primary from the voters who had read the *Union Leader*'s charge Thursday that Muskie was unsympathetic to Franco-Americans."

But that was only part of the threat. For weeks, the *Post*'s coverage had emphasized that the senator, who was running even with President Nixon in the polls and well ahead of any opponent for the nomination, had chosen a high-risk, early-knockout strategy. He would run in all the early primaries in an effort to "collapse the opposition" and nail down the nomination by April 25, when Massachusetts and Pennsylvania com-

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None of us reporting the story pursued the mystery of who authored the "Canuck letter." The story in our eyes was not the provocation, but Muskie's reaction.

pleted the run of the first six contests.

Another theme was clearer in the conversations of the journalists on the scene than in the copy we were filing. That was the possibility that Muskie might crack under the strain of his schedule and the tension of the most important election in his career. Deep down in a February 14 story, I alluded to this: "If sensitivity is the measure of insecurity, there is plenty of evidence that the Muskie camp feels some pressure from McGovern's campaign.... Several times this week, Muskie reacted with anger to questions from high school students he charged were 'planted' by the McGovern camp."

The scenes were uglier than that bland paragraph suggested. At one school, a teenager who asked an uncomfortable question was interrogated by the senator as if he were a prosecutor trying to shake the alibi of an accused wife-killer.

Lou Cannon witnessed those high school blowups and gained further insight into the state of Muskie's temper when he was invited to join in a friendly poker game aboard a Muskie charter. As Cannon described in his book, *Reporting: An Inside View*, "On the first hand Muskie was dealt four cards to an inside straight and threw down his hand with an oath when he failed to make the straight on the fifth card. I liked Muskie just fine, but I made a personal decision right then that he seemed a little temperamental to be president of the United States."

Cannon asked the right question:

> What does a political reporter do with this kind of insight? As in this instance, it is rarely written as a hard news story the first time the thought arises. Most reporters have a healthy reluctance to play amateur psychiatrist. Often, the incidents are trivial in themselves. Sometimes, as with the poker game, they occur in semiprivate settings, which many reporters—myself included—feel uncomfortable in exploiting directly for journalistic purposes.

What we tend to do is to store such incidents in our minds and then use them to interpret major incidents when they occur.

Such was the case with Muskie's emotional display in Manchester. One reason Jack Germond reacted as swiftly and surely as he did to the television pictures of the scene was that he had been present—as I was—at an off-the-record session almost a year before, where a group of political reporters had dinner and a long evening of discussion with Muskie. What all of us remember about the evening was that much of the time Muskie was in a bellowing rage, brought on by persistent efforts to draw him forth on the Vietnam war.

We all suspected that under the calm, placid, reflective face that Muskie liked to show the world, there was a volcano waiting to erupt. So we treated Manchester as a political Mt. St. Helen's explosion, an event that would permanently alter the shape of "Mt. Muskie."

It was not an accident that in the fifth paragraph of my story, I wrote: "The 60 to 70 newsmen and supporters huddled in the snowstorm to hear the senator's speech watched with surprise as the normally disciplined Muskie let his anger and his frustration show."

Nor was it unplanned that after clearly identifying Loeb as a harsh critic of the senator and the chief supporter of his rival, Sam Yorty, I still gave front-page prominence to the publisher's response: "I think Senator Muskie's excited and near-hysterical performance this morning again indicates he's not the man that many of us want to have his finger on the nuclear button."

It was the temper-tantrum theme that Muskie's political foes such as Senator Robert Dole, then the Republican national chairman, used in their second-day comments that built the momentum for the story and kept it bubbling in the press.

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A bad scene

With the advantage of hindsight, I think I was correct to treat the Manchester incident as a major event and to put it in the context of a high-risk, go-for-broke campaign strategy by an exhausted, emotional candidate who was unable to sustain the pace. Muskie himself said as much after the campaign in an interview with Theodore H. White for *The Making of the President 1972*:

> That previous week, I'd been down to Florida, then I flew to Idaho, then I flew to California, then I flew back to Washington to vote in the Senate, and I flew back to California, and then I flew into Manchester and I was hit with this "Canuck" story. I'm tough physically, but no one could do that—it was a bitch of a day. The staff thought I should go down to the *Union Leader* to reply to that story. If I was going to do it again, I'd look for a campaign manager, a genius, a schedule-maker who has veto power over a candidate's own decisions. You got to have a czar. For Christ's sake, you got to pace yourself. I was just goddamned mad and choked up over my anger.

The key was the "Canuck letter" Muskie mentioned in the interview with White. It was a curious document, which had appeared two days earlier along with a front-page editorial, signed by Loeb and headlined, "Senator Muskie Insults Franco-Americans." With the bold-faced type and capital letters Loeb used to hammer home his message, the editorial concluded: "We have always *known* that Senator Muskie was a hypocrite. But we never expected to have it so clearly *revealed* as in this letter sent to us from Florida."

Along with the editorial was a photocopy of a hand-printed letter with many misspellings, in an almost childlike hand, sent to Loeb by a Paul Morrison and postmarked Deerfield Beach, Florida. It said the writer had encountered Muskie and his party in Florida, and that Muskie had been asked how he could know much about the problems of blacks, since there were so few of them in Maine. "A man with the senator said, 'No, not blacks, but we have Cannocks,' " according to the letter. Muskie, it said, laughed at the remark and invited the questioner to " 'come to New England and see.' "

Loeb's editorial comment was that if Morrison "hadn't taken the trouble to write about his experience...no one in New Hampshire would know of the derogatory remarks emanating from the Muskie camp about the Franco-Americans in New Hampshire and Maine—remarks which the senator found amusing."

Since French Canadians are a major Democratic voting bloc in New Hampshire, particularly in Manchester, and since "Canuck" (as it is usually spelled) is an offensive epithet, it was not surprising that Muskie's phone canvassers quickly found a negative reaction to the senator and pressed him strongly to denounce the *Union Leader* editorial as a lie.

Muskie did not need much urging. Like many other Democrats, he regarded the *Union Leader* and its publisher as one of the most flagrantly slanted opinion-mongers in the business. Among other things, Loeb and his paper had labeled the senior senator from Maine and 1968 Democratic vice presidential candidate "Moscow Muskie," "Flip-Flop Muskie," and "a phony."

Far worse, in Muskie's eyes, was Loeb's decision to reprint, as another front-page editorial, a bitchy portrayal of his wife, Jane, that had originally appeared in *Women's Wear Daily* and was picked up in edited form by *Newsweek*. The article depicted her smoking, drinking, cussing, and generally behaving in a way conservative New Hampshire voters might not think becoming in a prospective First Lady. Muskie decided to hit back at Loeb.

At that point, some of the internal dynamics of the press took over the operation. One of the central paradoxes in any journalist's life is that we crave novelty, but live in a world where routine is vital. Freshness and surprise are built into the definition of news; the unusual, the unexpected and, best of all, the unprecedented are what we seek. But we know the world is full of repetition, because the daily routine of our own organizations is rigid and unvarying: deadlines must be met so that presses may roll and papers be delivered on time. Hence, the requirement for those who are seeking to "make news" is itself paradoxical: They must, ideally, do something unusual, unexpected, or unprecedented. But they must do it in a time, place, and manner that fit the unvarying routine of the news organizations.

The Muskie appearance at the *Union Leader* met both needs. It is unusual for a candidate to denounce the publisher of the leading newspaper in a state where he is campaigning. The normal rule in political campaigns is to ignore such attacks, or deal with their instigators at arm's length, through a letter to the editor or a rebuttal from the press secretary; "you don't get into a fight with anyone who buys ink by the barrel,"

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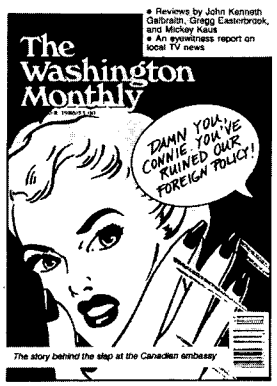

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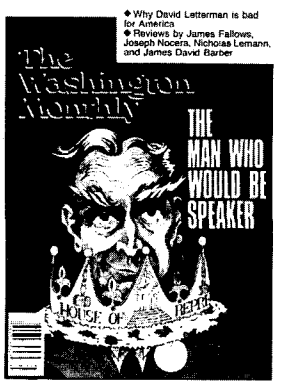

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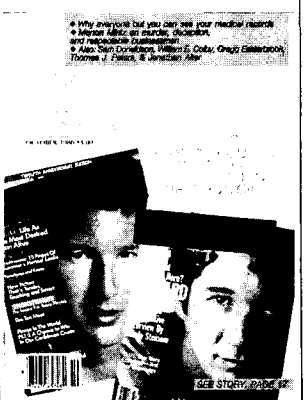

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Muskie was not a victim of an over-ambitious campaign strategy, but of a fraud, managed by a frightened and unscrupulous president.

as the saying goes. Muskie's denunciation came at a time when Loeb had more than a week before the primary to reply. And the picture of a major presidential candidate delivering his denunciation on the doorstep of the newspaper—rather than from a distance—was also unusual enough to guarantee attention.

Still, the question is: Did we see what we thought we saw? Years later Muskie told me:

> I arrived in Manchester tired, nearly exhausted. The staff said that I had an opportunity to make a point about Loeb, who was personally unpopular with Democrats in the state. So I yielded.
>
> I did not cry. I know it is not easy to distinguish between anger on the verge of tears and crying, but there was no flow of tears.... There was melting snow. But I choked up in my anger, and it was a bad scene, whatever it was. Interestingly, the first reaction I heard that day was positive, that I had confronted Loeb and told him what I thought. Only later did I hear the reaction that it was a sign of weakness on my part, that it was disturbing people. Eventually, the reaction was devastating.

Jim Naughton, who covered the story for the *Times*, told me that he was standing at Muskie's feet, "looking up directly into his face...and I swear to this moment I'm not sure if he was in tears."

Neither then nor later did I have much doubt about what I wrote. I was standing there and had recorded the statement. But did I check with Muskie to ask if he had wept? I did not. I did follow him to a nearby hotel, where he filmed a brief interview with a Boston television station. Standing in the improvised hotel room studio, watching the interview, I remember thinking that I had never seen Muskie so ravaged and worn. I certainly had the opportunity there to ask him. But whether from sympathy or timidity, I did not walk over to him and say, "Well, senator, what the hell happened up there? Have you flipped out—or what?" Instead, I included in my story the next day a comment Muskie made in his interview:

> Muskie told an interviewer after his speech that he felt that in reprinting the item [from *Women's Wear Daily* and *Newsweek*] Loeb was "just deliberately slurring...a good woman...deliberately cutting down her character just to get to me. I guess the full realization of what he'd done just hit me this morning, suddenly, and I couldn't go on."

But as far as I can recall, there was no internal questioning of the accuracy of the story then, or later, at the *Post*. Still, it nags at me as few other stories I have written.

Systematic sabotage

What Muskie did not know, and what I certainly did not know at the time, was that there was another set of facts that would have put the incident into a very different context. Those facts related to a series of actions, ordered and coordinated by the Nixon White House and designed to harass, to vex, and to embarrass the front-running Democrat who was judged a serious threat to Nixon's re-election. The "Canuck letter" was part of that plot.

Had those facts been known, I might have described Muskie in different terms: not as a victim of his over-ambitious campaign strategy and his too-human temperament, but as the victim of a fraud, managed by operatives of a frightenened and unscrupulous president. That story surely would have had a different impact.

Given Loeb's history, there was ample reason for skepticism about the origins of the "Canuck letter." Indeed, in my story about the Manchester incident, I devoted seven paragraphs to that subject, noting that "the Deerfield Beach telephone company does not list a Paul Morrison among the 15 Morrisons in its directory," and noting that Loeb, while promising "a very interesting follow-up" on the letter, had not yet produced the author.

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The story also quoted at length the denials of the senator and others who were with him in Florida that any such thing happened. But regrettably, none of us reporting the story pursued the mystery of authorship. We were in New Hampshire, tracking the candidates through the final week of the primary campaign. Paul Morrison, if he existed, was one thousand miles to the south. And the story, in our eyes, was not the provocation but the reaction.

It was not until seven months later, when Nixon was sailing toward a landslide victory over McGovern and Muskie was back tending to his Senate business, that the mystery began to unravel. Marilyn Berger, then a colleague at the *Post*, told me that Ken W. Clawson, a former *Post* reporter who had gone to work at the White House as deputy director of information, had told her that he was the author of "the Canuck letter."

I urged Berger to tell her story to Carl Bernstein and Bob Woodward, and on October 10 they described "the Canuck letter" as part of a "massive campaign of political spying and sabotage conducted on behalf" of the reelection effort by White House and Nixon campaign officials. As Woodward and Bernstein spelled it out in their stories and book, *All the President's Men*, there was a trail of incidents going back to mid-1971 suggesting, in Muskie's words, that "somebody was out to ambush us." Letters attacking other Democrats were sent out on facsimiles of Muskie's Senate stationery. Sensitive polling data disappeared from his headquarters. Phony campaign flyers were distributed in his name. Harassing phone calls were made to voters by people purporting to be Muskie campaign workers. On and on the list went, making it clear that Muskie was the victim of systematic sabotage.

Had Muskie made such charges the previous winter without proof, he would likely have been judged paranoid or a cry-baby by most reporters. Had he been able at the time to provide the proof, the political history of the year would undoubtedly have been very different.

The coverage of the incident shows that when a reporter's information is incomplete, there is a great risk of misleading the reader. I put the Manchester speech into the context—accurately, I believe—of a campaign and a personality that were accessible to journalistic view. I did not put it into the context of campaign sabotage. Unwittingly, I did my part in the work of the Nixon operatives in helping destroy the credibility of the Muskie candidacy. ■

ISRAEL AND THE AMERICAN NATIONAL INTEREST

A Critical Examination

CHERYL A. RUBENBERG

Rubenberg argues that the U.S.-Israeli partnership, far from furthering our national interests in the Middle East, has severely damaged them. Tracing the history of U.S.-Israeli relations from the partition of Palestine in 1947 through the war in Lebanon, she illuminates the reasons for America's enormous support for Israel, while illustrating the various mistaken assumptions on which the relationship has been based — especially the assumption that Israel is a strategic asset to American interests.

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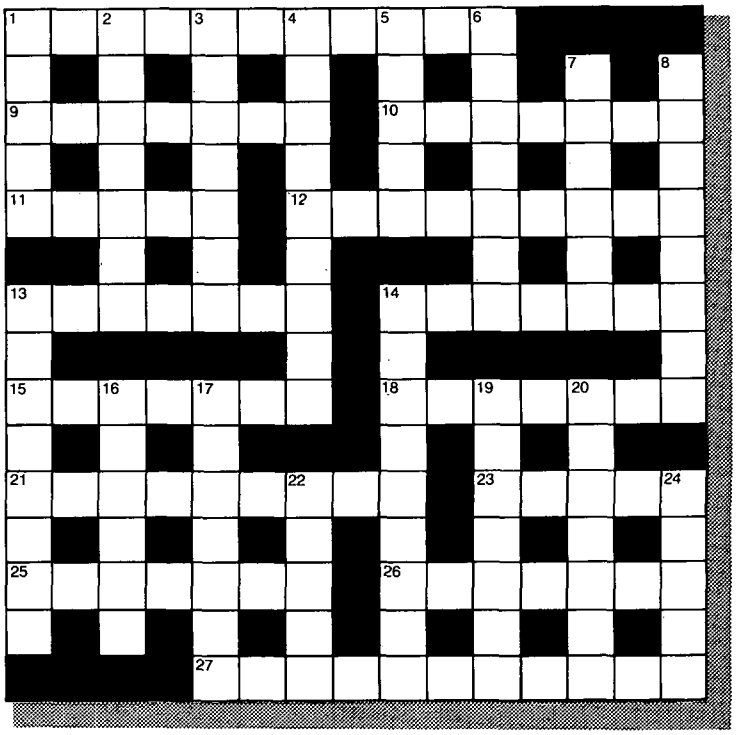
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g., (2, 3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.



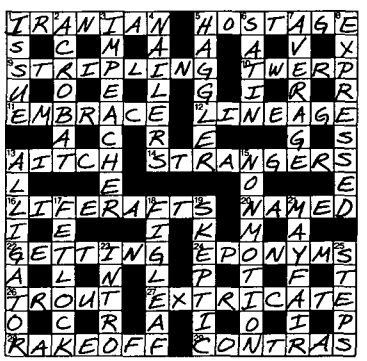
ACROSS

1. Give the first New York Stock Exchange new date. (6, 5)
9. Reagan's military effort becomes a danger. (7)
10. Gather chits or a bird. (7)
11. Services priviliges orally. (5)
12. Art form degree in drastic manner. (9)
13. Noisy critic finds pest in drink. (7)
14. Creeped around to go before. (7)
15. Gets satisfaction for Geneva's disturbances. (7)
18. After shut out Oilers formed into new team. (7)
21. Detroit dance? Child's play! (5, 4)
23. Shrewdly cut advertisment for money. (7)
25. Chatters aimlessly without a prison term. (7)
26. Tin cans conceal their nature. (7)
27. A mastermind composed off-and-on Reagan policy. (11)

DOWN

1. Age in queen is hard to contain. (5)
2. Get rare assembly of city and suburbs. (7)
3. Clumsy start in passage. (7)
4. Sand darts set up as goals. (9)
5. Instrumental name? (5)
6. Peculiar trait in New England salt. (7)
7. 504/499 ($ E). (6)
8. Hints: is page taken in by crazy shrew? (8)
13. Least interesting tables set with North Dakota entrees. (8)
14. Fixed up sorer polo player taking defeat badly. (4, 5)
16. Senior shrubs. (6)
17. Somehow get deer welcomed. (7)
19. Popular princess in Midwest. (7)
20. Let silence be restored. (7)
22. Troubles as guerrilla hero comes in. (5)
24. Understood act it amended. (5)

Answers to last month's puzzle:



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When we add layers of protection for the elderly, let's remember that even minor illnesses may mean financial disaster for people without any health insurance.

Photo: National Institutes of Health

by Janet Hook

CATASTROPHIC INSURANCE FOR ALL

In the current debate over providing catastrophic health insurance, the loudest critics have been conservatives who think this would be an unnecessary expansion of government. Ironically, the last time Congress seriously considered giving the federal government a role in paying for catastrophic health costs, it was liberal Democrats who were on the front line of opposition.

In 1979, legislation to guarantee catastrophic coverage for extraordinarily high medical bills was gathering steam in the Senate. But organized labor and other liberal forces objected to plans that provided only catastrophic coverage. They had long been pushing for a bigger prize, national health insurance, and feared any half-measure could take the impetus out of their drive. Senator Abraham Ribicoff pleaded with labor to drop its all-or-nothing strategy and support a politically achievable plan: "Isn't 50 percent of something better than 100 percent of nothing?" They got 100 percent of nothing.

Liberals may now conclude with regret that they missed a great opportunity to move in the direction of broader health insurance coverage. But they were on to something in 1979. The principle underlying their resistance was that it is hard to justify giving priority to expanding benefits for people who already have basic health insurance coverage when there are so many people who don't have even that.

That principle should not be forgotten as the current revival of interest in catastrophic insurance gathers momentum. The plan urged by Otis Bowen, the secretary of Health and Human Services, would expand medicare to cover catastrophic hospital bills for the elderly. Such an expansion would not do anything for the 30 million or so young and middle aged who have no health insurance and for whom even a $2,000 medical bill could be catastrophic. And for the

Janet Hook is a reporter for Congressional Quarterly.

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elderly, the plan wouldn't even cover nursing home costs, which are a more serious problem for them. With more imaginative funding ideas we could afford a wide-ranging catastrophic plan.

A letter from Danny Thomas

Most people know someone who has been hit by an illness that requires long, expensive care. Victims of a car accident, cancer, or Alzheimer's disease have in common the tremendous expense of extended care. At a House Ways and Means hearing on the subject last year, Rep. Hal Daub, a Nebraska Republican, told his colleagues that his 67-year-old father had incurred almost $300,000 in medical bills from seven months in the hospital, including four in intensive care. Daub's father was covered by Medicare, and had a supplemental private insurance policy, which meant he "only" had to spend about $20,000 of his own.

Our current health care system provides basic coverage for 28 million elderly through Medicare. But there is now no ceiling on the out-of-pocket expenses they may face. Medicare beneficiaries have to pay at least 20 percent of their doctors' bills, a deductible for each hospitalization, and a hefty share of the tab for hospital stays longer than 60 days. After 150 days in the hospital, the elderly pay all their expenses.

Prodded by high-pressure sales techniques warning that disaster may be around the corner, many have turned to supplementary private insurance known as "Medigap" to cover what Medicare doesn't. Matilda Sutphin of Melvin, West Virginia, told the *Charleston Gazette-Mail* that she bought Medigap because "Danny Thomas kept writin' me about his insurance.... He said it [a hospital stay] would take all the savings I had and then I would have nothing. I wouldn't have nothing and being a burden on the kids and everything." But often the elderly are persuaded to buy several overlapping Medigap policies that fall far short when it comes to covering serious costs. Moreover, about 35 percent of all Medicare beneficiaries don't even have a Medigap policy.

Bowen's plan to provide catastrophic coverage under Medicare would help only the roughly 800,000 elderly who run up medical bills exceeding $2,000 a year. Bowen's proposal would cap out-of-pocket expenses for Medicare beneficiaries at $2,000 a year if they pay an additional $4.92 a month in premiums—on top of the $15.50 monthly premium they now pay for Medicare's "Part B" insurance for non-hospital expenses.

The principal conservative complaint is that Bowen's plan would offer a service already available through the private market's Medigap. But the government could give the elderly a better buy because much of the revenue from Medigap premiums goes to administrative costs and profits. The government, presumably, would also be less likely to sell the elderly policies they don't need.

Of course the real problem with Bowen's Medicare proposal is not what it does, but what it doesn't do.

Routine catastrophies

For the elderly, a more fearful prospect than long hospitalizations is paying for nursing home care for which there is now little government help. Some 1.4 million elderly people are in nursing homes, but Medicare doesn't pay for much of that care. Total nursing home costs hit $32 billion in 1984, roughly 40 percent of which was paid by Medicaid, 1 percent by private insurance, and the rest by patients and their families.

A 1985 survey for the House Aging Committee found that it took only 13 weeks in a nursing home for two out of three single elderly patients to impoverish themselves; within a year, more than 80 percent were impoverished. To get Medicaid to pay for nursing home care, the elderly now have to do just that: make themselves poor, through the humiliating, embittering process of "spending down."

Just as important, expensive illnesses and conditions hit the young as well as the elderly. Ten million people have basic health insurance but have inadequate coverage for exorbitant health bills. A Washington-area family, for example, faced $2,000-a-month medical expenses to care for a 17-year-old daughter who had severe brain damage after a car accident. The family brought the semi-comatose girl home and bore the brunt of the expense for at-home care, *The Washington Post* reported, after their insurance companies stopped paying for the $8,000-a-week cost of hospitalization.

The spread of AIDS will further increase the number of people without insurance who need expensive medical care. Studies have shown that the average cost of treating an AIDS patient is $70,000 but that many of these patients lose their jobs and therefore their health insurance soon after diagnosis. Estimates are that the AIDS population will grow to 100,000 or even half a million, the care of which will cost $15 billion or

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more by 1991.

Bowen's Medicare plan also doesn't seriously address those who don't even have basic insurance. For that group, particularly those who are poor, even having a broken leg set or having a baby delivered can wreck the family budget. Contrary to the impression left by countless stray presidential anecdotes, the poor do not have all their medical problems taken care of by government. Medicaid only covers half the poverty population. Although the program, like welfare, is partly financed by the federal government, states have wide latitude to say how poor one has to be to qualify for benefits under the program. Income eligibility standards in some are shockingly low. In 1985, for example, a family of four generally could not qualify for Medicaid in South Carolina if it had more than about $5,000 in gross income. Because the program also focuses on narrow categories of the poor, some people—generally able-bodied men and their families—cannot qualify for Medicaid no matter how poor they are. For these poor, even routine costs can be catastrophic.

Uncle George's millions

If the need for catastrophic coverage is so broad and should therefore be politically appealing, one has to wonder why it has never been enacted.

The nation's most serious effort to institute a comprehensive plan to cover America's basic health needs was initiated in the late 1940s by Harry Truman, but was defeated by the American Medical Association in one of the most expensive lobbying campaigns in history. When health reformers sought a more modest proposal in a strategic retreat from full-blown national health insurance, they looked for limitations not only on what was covered but also on who was covered. They turned their attention to the elderly.

The elderly were particularly appealing because they were presumed to be needy—even without a means test, which was, and is, regarded as stigmatizing. They had the lowest earning capacity, the highest medical bills, and the most difficult time getting private insurance at affordable rates. Equally important, the elderly were beginning to emerge as a potent political force.

When Medicare was enacted in 1965, it focused on the limited but ground-breaking goal of covering short-term care for the elderly. It left them still exposed to the risk of catastrophic expenses, however.

During the Medicare debate, the one serious proposal to include both catastrophic and nursing home coverage was considered a deadly amendment. Critics said it was an expensive add-on that far exceeded what most people got under private health insurance.

While in the sixties catastrophic insurance was considered the lead weight that could sink the whole Medicare bill, it came to be regarded in the seventies as the middle-class sweetener that would make it easier for a reluctant populace to swallow national health insurance. Almost all of the comprehensive health schemes debated in the seventies included a catastrophic insurance feature. But passage of catastrophic insurance alone was generally opposed by proponents of broader care who feared it would undermine middle class support for improved coverage for the poor. Others complained that catastrophic health insurance would give hospitals new incentives to skew resources towards expensive, high-tech equipment and treatments, rather than basic care.

Since 1980, concerns about the inflationary ef-

Why should the deceased's relatives benefit from the money the government has spent on his care? If those nephews and nieces want to get Uncle George's millions, let them take care of him.

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fect of covering catastrophic costs have become less compelling. Private businesses have tried to curb employee benefit costs, and since 1983, a new Medicare payment system has reduced incentives for hospitals to keep patients too long or to provide unnecessarily expensive treatments.

The old tactical objection that enacting catastrophic insurance would sabotage a broader health care program is less relevant. Almost everyone has given up on national health insurance, and in these austere times, health reformers are legitimately inclined to take whatever incremental gains they can get.

Politicians will likely be tempted to restrict catastrophic initiatives to the elderly and call it a day for the same reasons that health reformers in the 1950s and 1960s focused on that group. But unlike 20 years ago, the elderly as a group are not the neediest segment of the population; their poverty rate is now lower than that of those under 65.

That's not to say the elderly shouldn't get catastrophic protection but that those benefits should be self-financed for those who can afford it—and that any new direct federal spending should go first to such things as expanding Medicaid to improve basic health insurance for those lacking any coverage. Ideally, the current fervor for catastrophic insurance could provide an opportunity to link the political sex-appeal of helping the elderly to the less popular need to help the poor.

Well, that's all very nice, you say, but how could we possibly afford such truly comprehensive catastrophic insurance? There are ways to finance new health care that are not being used now. One is to tax Medicare benefits so that the government will recover amounts paid to wealthy recipients who don't need the aid. Another is to tax the estates of deceased recipients of government medical benefits to recover the difference between what the government spent on them and what they paid in premiums. So, for example, if a man had paid $9,000 in Medicare payroll taxes over his working years and received benefits worth $20,000, after his death $11,000 could be recovered. For humane reasons, such a tax should not be collectible until the surviving spouse also dies and the care and education of any remaining minor children has been provided for. But beyond these provisions, why should the deceased's relatives benefit from the money the government has spent on his care? If those nephews and nieces want to get Uncle George's millions, let them take care of him. If the government pays for the caring, it should get its money back before those nephews and nieces get a dime.

This proposal answers the conservative objection that government health care support undercuts the incentive for kids to care for their parents. Government support, the argument goes, helps children preserve their own wealth as well as keep intact that juicy bit of inheritance that awaits them. No one could argue that kids thrust their parents on the government dole just to safeguard their inheritance if that inheritance will be tapped to pay for the father's dialysis. A modest version of this plan suggested by Barbara Torrey, an analyst with the Census Bureau who formerly monitored HHS as an analyst at the Office of Management and Budget, would have raised an estimated $10 billion, while providing that no more than 25 percent of the estate could be taxed to recover the Medicare benefits. Obviously, removing the 25 percent cap would bring in a far heftier chunk of change.

It is important that whatever money is raised be devoted to the beginnings of catastrophic protection for people of all ages. Ideally, the government would expand eligibility for Medicaid and require all states to have "medically needy" programs. Such programs, already running in about two-thirds of the states, allow the near-poor to qualify for Medicaid if their medical expenses bring them within income eligibility standards.

Another option would be to allow the near-poor to buy into the program with premiums geared to their income. Secretary Bowen's report estimated such a plan would cost $15 billion if it included all people with income below 125 percent of the poverty line, with premiums capped at 5 percent of income. So a man earning $6,000 annually would pay no more than $300 to gain full medical coverage.

Because not all the uninsured are poor, some people may have to be reached by other mechanisms. States should be encouraged to set up insurance risk pools to make coverage available to people with chronic illnesses and those who cannot obtain a private policy at reasonable rates. But subsidies may be needed to keep the premiums affordable.

No program to plug the gaps in the health care system will be cheap, and this is not the time to be adding billions to the federal budget. But it is a measure of how far the political ground has shifted since the battle to enact Medicare that a Reagan administration official can agree with Ted Kennedy that the federal government has a role in filling some of those gaps. In all the coziness of consensus, let's make sure the right holes are patched. ■

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When Truman taped Tommy Corcoran, he gave history a unique look at the beginning of executive branch lobbying, now Washington's major industry.

Photo: UPI/Bettman Newsphotos

TOMMY THE CORK

THE SECRET WORLD OF WASHINGTON'S FIRST MODERN LOBBYIST

by Allan J. Lichtman

"I know the corners of this town in the dark," boasted Thomas G. Corcoran, Washington's premier lobbyist, in a private phone conversation in 1945. His words are preserved today because Harry S. Truman had the FBI tap into the corners of Corcoran's Washington, recording conversations held on the power broker's home and office phones.

Corcoran, nicknamed "Tommy the Cork" by Franklin Roosevelt, had been FDR's chief political operative, guiding much of the New Deal legislation through Congress and serving as the President's primary deal maker and talent scout. He had joined Roosevelt's administration in 1933, seemingly an idealist recruited by Felix Frankfurter to help "cheat the cheaters." But by 1941 Corcoran had embarked on a career that would gain him a more dubious distinction as the prototype modern lobbyist and influence peddler.

Truman apparently tapped Corcoran because he feared that several of FDR's former aides were plotting against his administration. In so doing, Truman and FBI Director J. Edgar Hoover, who likely originated the idea for the taps, created the most extensive record of political surveillance in American history: 5,000 pages of wiretap transcripts, covering May 1945 through early 1947. They were deposited in the Truman Presidential library and opened to researchers two years after Corcoran's death in 1981.

The tapes provide a mini-course in the art of Washington lobbying with lessons hidden behind every deal, the most important being that lobbying is not pulling strings—it's scrambling. Corcoran enlisted a Catholic bishop in one lobbying effort, and used the off-the-cuff words of a tipsy

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cabinet secretary in another. He plotted with a future Supreme Court justice to bribe a selective service official, and acted as real estate agent for a sitting Court justice. He helped a major company evade wartime quotas for soaps, drawing into the fray a half-dozen major government officials, party leaders, and businessmen.

At every step Corcoran searched for a way to use his former White House connections to cash in for himself, in one case personally profiting from the transformation of a United Nations relief effort into what later became the first CIA-backed airline—the forerunner of Southern Air Transport that shuttled Eugene Hasenfus and weapons to the contras.

Although Corcoran suspected his phones might be tapped, he spoke candidly of personalities and strategies, sometimes bluntly acknowledging the illegality of his efforts. The tapes even show a streak of anti-Semitism and a contempt for some of his former New Deal associates who had taken a different path.

The trail that Corcoran traveled seems well-beaten now: find a government job, develop expertise, then leave government to sell that expertise for a handsome profit. But it was Tommy Corcoran and a handful of other FDR aides who first applied that career strategy to the executive branch. They recognized that the mix of New Deal regulations and World War II foreign policy commitments had created an opening for savvy, well-connected lobbyists who focused not just on Congress, as they had in the past, but on federal agencies like the Securities and Exchange Commission and the Export-Import Bank. In the process, of course, Corcoran sometimes worked to undermine or exploit for personal gain the very laws and regulations that he and other New Dealers had helped establish. But as he said in a phone conversation in January 1946, "You can't luxuriate yourself in your personal friendships and your likes and dislikes and your senses of justice and injustice when you're playing in this racket."

The little red house

Corcoran's path to political power began in Pawtucket, Rhode Island, where his father headed the town's most prominent law firm. He attended Harvard Law School studying under Professor Felix Frankfurter, who later became a close adviser to Roosevelt and the leading advocate of an activist government. After a clerkship with Supreme Court Justice Oliver Wendell Holmes, Corcoran joined the prestigious Wall Street firm of Cotton and Franklin where he plunged into the practice of securities law.

In 1932, Cotton and Franklin loaned Corcoran to the Reconstruction Finance Corporation, an agency set up by Herbert Hoover to fight the Depression through loans to businesses and banks. Supposedly on temporary assignment, he would never again leave the nation's capital. In 1933, FDR's "Brain Trust" recruited him to help write and lobby for legislation governing the securities industry. Corcoran's behind-the-scenes maneuvering on behalf of New Deal legislation impressed both Frankfurter, by then a Roosevelt confidant, and the president himself. Although formally employed in a minor agency position, Corcoran was drawn into the inner circles of the White House, soon becoming FDR's all-purpose speechwriter, strategist, talent scout, and back-channel lobbyist. Corcoran's "Little Red House" in Georgetown became the town's leading communications center. Government officials, journalists, and businessmen swapped information and traded favors with Corcoran, creating the network of contacts that he would exploit in his private practice. Historian Cabell Phillips wrote that Corcoran and New Deal colleague and housemate Benjamin Cohen "constituted a sort of semi-autonomous fourth level of government."

Yet by the time of Roosevelt's reelection in 1940, Corcoran's seven years of scuffling with Congress and the press had transformed him into a political liability. He was blamed for Roosevelt's embarrassing political defeats with the 1937 plan to pack the Supreme Court and the 1938 efforts to purge conservatives from the party. The enemies he had made through his high-pressured lobbying style also blocked Corcoran's dream of becoming U.S. Solicitor General or under-secretary of the Navy, FDR's old job. Even ex-mentor Frankfurter came to believe that Corcoran lacked the discipline to put into practice the ideal of selfless public service.

The triple play

So in 1941 Corcoran began working as a lawyer-lobbyist. Although he could no longer jolt senators and cabinet secretaries by crackling "this is Tommy Corcoran calling from the White House," he could remain a manipulator of people and events and a permanent member of the in-crowd. In several of the deals captured on the tapes, Corcoran helped powerful individuals with problems that involved the government, often enlisting the help of important officials and cut-

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Corcoran's lasting contribution was in showing how self-enriching passage through the revolving door can be. He provides the evolutionary bridge between the crass fixers of the past and today's slick lawyers who serve the public interest for a short time for the sole purpose of cashing in later.

ting them in on potential profits from the case.

They show, for example, that in early 1946, Corcoran teamed up with Abe Fortas, former undersecretary of the Interior, later a Supreme Court Justice, and another New Dealer who used his government expertise for private gain. The tapes show them considering a plan to strike it rich by helping financier Serge Rubinstein avoid criminal prosecution for draft evasion and securities law violations. In a conversation recorded on January 27, 1946, Corcoran explained to Fortas that the wooing of a client had two stages: first, earn their confidence, then, exploit their fears: "You can't do it until you've proved to him a little bit that you can help him. As soon as you get him on the fly-paper and as soon as you're sure yourself you can help him, then you can do something [to get control of his assets]."

To help Rubinstein with his draft evasion case, Corcoran that day called William Leahy, Selective Service director for the District of Columbia: "He [Rubinstein] is a rich man who's scared as I never knew one who's scared. He can put it on the line.... I think you can get $100,000 down this morning." Leahy reported the following day that Rubinstein's one slim hope was that Selective Service might want to quash the prosecution to avoid being embarrassed by their initial failure to discover the violation. Fortas told Corcoran that "Chocolate bar [Lewis B. Hershey, national director of Selective Service] thinks it will be a black eye for him. Because they didn't catch it themselves.... Now that may be hogwash, but Bill [Leahy] is going to look into it this afternoon. And we're trying to get this guy [Rubinstein] out of town on a plane." They then engaged in an Alphonse and Gaston conversation about compensation:

Fortas: He [Rubinstein] handed me a check for five [$5,000]...on one of his companies. Is that all right?

Corcoran: Sure....

Fortas: Now all or any part of that is yours.

Corcoran: No it's yours....

Fortas: Well, Tom you're too generous.

Corcoran: Someday, maybe, we'll make some adjustment, but that's all yours. Because we've got to get this thing off the ground, boy. Remember what I said. I have a vivid idea of the rent.

Fortas had apparently made a quick profit (although Rubinstein's checks may have been as suspect as his character). But the larger scheme collapsed. Rubinstein was indicted on January 30 and later convicted in one of the most publicized draft evasion cases of the World War II era. Ironically, Fortas was forced off the Court in 1969 by revelations that he had participated in a similar scheme to soak a trouble-ridden financier.

Corcoran usually demanded high fees as in the Rubinstein case; he admitted to a minimum fee of $5,000. In his first year in private practice, he is reported to have earned over $250,000 (comparable to seven figures in today's lobbyist-intensive Washington). "When you're charging fees...charge them high," Corcoran advised one senator. "The world takes you at your own valuation. You decide whether you're Tiffany or Woolworth—not the market."

But Corcoran also understood the value of humbly accepting modest payment in exchange for heartfelt future gratitude. He would, for example, earn the debt of politicians by engineering deals that would throw campaign contributions their way. The transcripts for 1946 indicate that in return for a $6,500 contribution for the re-election of Senator Joseph Guffey of Pennsylvania, Corcoran got the William Penn Life Insurance Company a permit to construct a new office building in Doylestown, Pennsylvania. When the task proved more difficult than he expected, Corcoran moaned that "what they did was chisel an extra $25,000 bucks worth of work out of me—the sons of bitches." The quid pro

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quo was so blatant in this case that the check arrived drawn on the company's account. Corcoran had to explain to the novices that corporate contributions were illegal and that other arrangements had to be made for remitting the money.

When it came to helping out the truly powerful, no man was more generous than Corcoran, for such assistance was a crucial tool in building his influence throughout Washington. For example, when Ganson Purcell was about to step down as chairman of the SEC, Corcoran offered him precious office space. Purcell accepted, adding what must have been music to Tommy the Cork: "But I feel I owe you so much already."

For Supreme Court Justice William O. Douglas, Corcoran functioned as a real estate agent. The following exchange, taped on March 18, 1946, shows how Corcoran mingled the personal and political, and reveals that the Supreme Court Justice was helping to arrange appointments to a key agency of government at the same time he was sitting on the court:

Corcoran: I found a downtown air-cooled apartment.

Justice Douglas: Oh, you did.

Corcoran: And I think I can work this thing out on a purchase basis.

Justice Douglas: Yeah.

Corcoran: The third thing I want to tell you. . . Sumner [Pike, SEC Commissioner] as well as Gans [Ganson Purcell, SEC Chairman] are quitting. . . .

Justice Douglas: We better get together and talk about guys to take over that place.

Corcoran's favorite arrangement was the triple play in which he would gain compensation for the efforts of others, avoid taxes, and make all parties believe that he had performed favors on their behalf. According to transcripts for Fall 1945, Corcoran was approached to help a wealthy businessman, Dick Von Guntard, get his daughter out of Russian-occupied Germany. Rather than traveling to Europe himself to make the necessary arrangements, Corcoran delegated the task to his

BEN COHEN: ONE WHO TOOK A DIFFERENT PATH

Not all the architects of the New Deal sold out. A number committed their lives to fighting for progressive ideals well after FDR had died. Perhaps the most selfless was Benjamin Cohen. As much as Thomas G. Corcoran came to be viewed as a venal lobbyist, Cohen was looked upon as a committed public servant. "Ben demonstrated through the 40 years after the New Deal that he believed in New Deal ideals," says Joseph Rauh, a civil rights attorney who worked for both Cohen and Corcoran in the thirties. "Tommy showed he didn't give a damn."

For a time Cohen and Corcoran worked together extraordinarily well. They were the Hot Dog Boys, Felix Frankfurter's Harvard Law School proteges who, from 1933 to 1940, teamed up to create one of the great lawmaking duos of this century. Together they transformed American public life by writing and pushing through such legislation as the Securities and Exchange Act, the Public Utility Holding Company Act, and the Fair Labor Standards Act. Key programs of the New Deal such as the National Industrial Recovery Act and the Agricultural Adjustment Act were swiftly dismantled by the Supreme Court. The legislation engineered by Cohen and Corcoran, however, withstood judicial review and remains today remarkably intact.

Officially Cohen was in the Public Works Administration, Corcoran at the Reconstruction Finance Corporation. In fact, they worked on everything. The house they shared in Georgetown was an around-the-clock workshop filled with Ivy League law school graduates Cohen and Corcoran had brought to Washington to help save the country.

From the start it was clear Cohen was the soul of the team, the one truly committed to serving the public good. Cohen wrote the legislation. Corcoran rounded up the votes, relishing more, one contemporary recalls, the arm-twisting and exercise of power that got the bills passed than the impact they had on bettering people's lives. In August 1937, *The American Magazine* described them this way: "Of the two men, Cohen is more the social philosopher, Corcoran more the lawyer working on an assignment with Uncle Sam as his client." When Corcoran left the government in 1940 to peddle his influence, Cohen stayed on, continuing to peddle his ideals.

During World War II Cohen served as economic counselor in the American embassy in London and later helped manage America's wartime economy. Cohen was involved in a number

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New Deal friend, Bishop Bernard Sheil of Chicago, influential head of the Catholic Youth Organization, who was going abroad on other matters. Corcoran dictated the following terms to Von Guntard's attorney: The businessman must "pay the expenses of the man of the cloth [Sheil] over and back as a contribution to him. Now that, my dear sir, is deductible. If the man of the cloth actually delivers...I want him to make the same $5,000 contribution to the Catholic Youth Movement over here...for myself, a bond up to the gift limit of three thousand dollars for each of my kids before he goes [a total of $12,000]." The Bishop got his carfare to Europe and a potential contribution, Von Guntard gained successful arrangements to have his daughter returned, and Corcoran received $12,000 tax free for his children.

Sweet deal

Many of Corcoran's cases exploited the new relationship between business and government that developed in the 1940s. The New Deal and the war had transformed Washington into a center of business activity. Corporate America crowded into the capital to take part in the war effort, to gain contracts and concessions from government, and to share in the development of a U.S.-dominated post-war economic and strategic system.

Corcoran particularly loved to assist companies in deep trouble; they always paid more. In the summer of 1945, for example, Corcoran teamed with former Senator William Smathers of New Jersey in an effort to acquire a share of a lucrative sugar company from businessmen charged with tax evasion. The recordings of August 30, 1945 show that Corcoran contacted Smathers with "a case of people who are awfully scared and they might pay you desperately well."

Corcoran explained to Smathers that he had personally "made their agent yesterday understand that they were right in the shadow of the pen...so that they'll dig up" if Smathers could

by John Eisendrath

of important wartime transactions between America and its allies. As counsel for the Office of War Mobilization and Reconversion, a position he served in without pay, Cohen drafted the legal opinion that expedited the supply of U.S. destroyers to a badly depleted British Navy.

In 1944 Cohen turned his attention to the creation of the United Nations. He is credited with having written the U.S. delegation's proposal presented at Dumbarton Oaks, the first big-power meeting arranged specifically to discuss the establishment of a new world organization. Cohen later served as U.S. delegate to the U.N. General Assembly, U.S. representative to the International Court, and chief U.S. member of the U.N. Disarmament Commission. At a time when Corcoran was successfully scheming to cash in by transforming U.N. relief efforts into the first CIA-backed airline, Cohen was laboring to make the U.N. a forum for world peace.

In a series of lectures at the Harvard Law School in 1961, Cohen argued that the U.N. should be used as an instrument for ending the Cold War since, by bringing nations together, it is the "best hope of peace on earth." While other New Dealers like former Supreme Court Justice Abe Fortas, who served as FDR's undersecretary of the Interior, and Thurman Arnold, FDR's assistant attorney general for antitrust, teamed up in powerful law firms like Arnold, Porter, and Fortas, Cohen wrote books like *The United Nations, Constitutional Developments, Growth, and Possibilities.*

Rauh says Corcoran asked Cohen to team up with him again in 1950 when Cohen was preparing to leave the government. Cohen told Rauh he had spurned his former partner, who by then was a controversial lobbyist, because, "I can't do that kind of practice." Instead, Cohen retired to the position of active elder statesman. "Ben was available night and day to advise on the same liberal ideals he had advised on in the New Deal," says David Ginsburg, a lawyer who worked with Cohen in the thirties. As early as the mid-fifties, Cohen warned against any U.S. involvement in Vietnam. "He saw it as a civil war that would be a disaster for America to involve itself in," says Ginsburg. "He was talking about Vietnam before most of us knew where it was."

Although he made millions speculating in the stock market in the twenties, friends say he dressed shabbily and lived in a dingy apartment. In his latter years, when mentioned in the press, he was often referred to as "ascetic Ben Cohen." Recalls a friend: "Ben was a sort of sainted figure. He really cared about public issues." ■

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just keep them out of jail. Corcoran suggested that Smathers "could say to the Department of Justice, 'You're getting the full tax and fraud penalty out of these people—there's no use in smashing up a local enterprise in my home state of New Jersey.' Get it?" Corcoran was particularly fond of having people like Smathers make the key contacts because it allowed him to increase his influence and protect himself at the same time.

Corcoran's plan called for picking these clients clean. "I think you can just take the pants off them," he said. Corcoran and several associates would share both the sugar company and an exorbitant fee. Although transcripts don't show whether Corcoran and Smathers were able to keep their clients out of jail—Corcoran called it a "long shot"—they do show that they were paid handsomely for their efforts. Within 24 hours of the deal being struck, Smathers reported back that cash was on its way. "I told them I wanted $5,000 now and $15,000 in January. They said they would come and bring it down. . . ."

Tommy hustle

One of Corcoran's most significant preoccupations during World War II and its aftermath was helping corporations and trade groups get around the federal controls on wages, prices, and raw materials. He helped the American Hotel Owners Association get relief from pricing restrictions and the Raycrest Mills company to get increased supplies of Rayon. When asked by Raycrest for help, Corcoran first thought about his own pocketbook: "How about the old dole?"

But of all the deals captured on tape, none more fully illustrates Corcoran's repertoire of lobbying techniques—and how often those techniques failed—than his exhaustive efforts in late 1945 and 1946 to help the Lever Brothers company increase its quota on the materials used in the making of soap. Quota breaking was a serious crime bordering on treason. Corcoran's delicate task was to pressure the Department of Agriculture into raising Lever Brothers' allocation of raw materials, without alerting competitors such as Proctor and Gamble. Corcoran avoided formal hearings in favor of private contacts and used front-men in addition to direct lobbying. For the Lever Brothers deal, Corcoran told law partner Worth Clark, a former senator from Idaho, "I want $100,000" and to keep the business for future deals with the company. To press Secretary of Agriculture Clinton P. Anderson for allocations beyond what department staff recommended, Corcoran enlisted the active participation of both law partner Worth Clark and Worth's cousin, Bennett Champ Clark, former senator from President Truman's home state of Missouri and a recent appointee to the Federal Court of Appeals for the District of Columbia.

By recruiting Bennett Clark, Corcoran gained both a White House connection and a potential debt of gratitude from an important federal judge. "I'd like to make Bennett secure for life on that [Lever Brothers case]" Corcoran told Worth Clark. "I think that would be the best damn investment."

The first big break in the case came from Corcoran's socializing rather than Bennett Clark's influence. In a conversation taped on November 23, 1945, Corcoran told a Lever Brothers executive that he had obtained a valuable confession from Secretary Anderson during a party "after enough drinks had gone so people can't tell the truth." According to Corcoran, Anderson had agreed that Lever Brothers should be allowed additional fats and oils, but had not overruled staff objections because he was about to lift all restrictions on them anyway. Lever Brothers would shortly get the raw materials it wanted and the secretary would not have "to take on a storm in his department" by making an exception for Corcoran's client.

The next day Corcoran learned that while alcohol may make confessions more readily available, it does not necessarily make them accurate. Anderson was wrong; quotas were not about to be lifted on the inedible fats and oils used in soap manufacturing. On December 11, Secretary Anderson informed Corcoran that the Lever Brothers case was officially closed.

Corcoran may have been secretly pleased that Anderson was mistaken about the demise of restrictions on fats and oils; the key to lobbying is not getting something done, but taking credit for getting something done. If Agriculture had ended its quota system, then Corcoran could not claim to have accomplished anything special for Lever Brothers. Corcoran had, in fact, a month earlier confided to Worth Clark that if rationing eased up they should go to Agriculture and ask for a face-saving, if substantively meaningless, recognition of their Lever Brothers claim: "Now I think that gives us a way of going to them and say now you know and we know that [quotas are] going to collapse, it's going to be unnecessary, but it's awfully important for us to make this showing so come on and do it for us. I hope there's no dictography in that office."

The Agriculture Department decision meant

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Corcoran would have to scramble for his client. "We'll have to mobilize forces tonight," he told Bennett Clark. "We'll get it." First, he tried to enlist the help of the Democratic Party machinery. He had earlier approached Robert Hannegan, the chairman of the Democratic National Committee and the postmaster general, about assisting in the Lever Brothers case, but Hannegan, seeing little in it for him, did little to help. So Corcoran offered the party a stake in the deal: in exchange for assistance with Lever Brothers, Corcoran and Worth Clark agreed to help the party treasurer court A. P. Giannini, retiring head of the Bank of America, and a politically influential financier.

To win Giannini's affection, Corcoran had to gain Federal Reserve Board approval of the Bank of America's plans to acquire 25 branch banks in California. On December 13, Corcoran reported that Worth Clark had persuaded Fed Chairman Marriner Eccles to give Giannini permission to acquire two or three banks as a prelude to further expansion: "And now, by God, I want Bob Hannegan to deliver for me on that Lever thing as he promised he would..." But Giannini was not enthralled. The "big storming pirate," Corcoran complained to Clark on December 19, had "pounded the table" and complained, "if you can give me two of them [branch banks] you can give me the whole twenty-five of them and I demand them." No help came from Giannini.

Just when Corcoran was looking pretty impotent as a lobbyist, the Lever Brothers company itself came to his rescue—by breaking the law. Corcoran learned that Lever Brothers, without authorization, had already obtained and processed into soap the 2.5 million pounds of fats and oils for which they had wanted Agriculture Department approval. Corcoran's mission changed to damage control.

He had just the weapon—Secretary Anderson's cocktail party gaffe. In a conversation with a Lever Brothers official on December 20, Corcoran explained that if Secretary Anderson dared move against the company, Lever Brothers could pretend that the secretary's off-the-record admissions had given de facto authorization for use of the extra fats and oils. "So as I understand it the two million five is already in the kettle.... Well don't worry about it. He [Anderson] knows you've put it in. But he doesn't know it in such a way that incriminates you. But he knows that in reliance on what he told me, you have taken an action which otherwise you wouldn't have taken.... I have very carefully not talked this thing directly with him because I'm passing the messages in such a way—remember we've violated a law—that I'm never putting myself in the point where I've said it."

That strategy received a temporary setback when career officials within Agriculture sent a letter warning that the department "did not believe the Company had acted in good faith in its use of fats during the last quarter of 1945." The letter prompted the following exchange between Corcoran and Judge Bennett Clark reported on February 4, 1946:

Corcoran: I must say that guy [Anderson] is a most amazing bird.... He says one thing to your face, and then four or five days later a subordinate of his writes a letter.

Clark: He's a dirty son-of-a-bitch.

Corcoran: I'm going to pretend I got out of town before I got the letter so I won't answer it.

Clark: The first chance I get I'm going to tell Harry Truman what a dirty double-crossing son-of-a-bitch this fellow is.

Just as Corcoran seemed to have run out of avenues for exerting pressure on the department, one last potential deal fell in his lap. President Truman had nominated California oil executive Ed Pauley for undersecretary of the Navy, but the nomination had stalled because of objections from Secretary of Interior Harold Ickes. By helping out on the Pauley nomination, Corcoran had a final opportunity to get the assistance he needed from party chairman Bob Hannegan. Corcoran told a Lever Brothers official on February 10, 1946 that Hannegan "asked us to get him two votes on this Naval Affairs Committee for Pauley.... I don't know whether I can deliver those two votes or not—my own hunch is that if I can, it is probably the last chance I've got to heave him in so tough that I'll get this quota." Corcoran could not deliver the votes for Pauley. Truman withdrew Pauley's nomination and accepted the interior secretary's resignation. Ironically, at the same time Corcoran was plotting to help secure Pauley's nomination over Ickes objections, he was helping the interior secretary write his letter of resignation.

After several unsuccessful efforts to gain special treatment, Corcoran finally gained a partial victory for his client. Apparently because Anderson had compromised himself, the Agriculture Department went relatively easy on Lever Brothers. The company was supposed to deduct the 2,500,000 pounds from the 1946 quota, but "no one is going to jail and time passes," Worth Clark concluded. In fact, Lever Brothers would never actually have to deduct the

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fats and oils it had illegally used in 1945. Instead the company could keep "readjusting [its quota] from quarter to quarter," putting off the deduction until wartime controls ended and no one cared anymore.

Although Corcoran never officially gained recognition of Lever Brother's claims, with his aggressiveness he had in effect succeeded in circumventing the regulations. While modern influence peddlers often promise only access, Corcoran delivered hustle. In the course of this one case, Corcoran had involved the treasurer of the Democratic Party, the postmaster general, a titan of American business, the head of the federal reserve system, members of the Naval Affairs Committee, a federal judge and a former senator. At each level, negotiation consisted of classic back room favor trading. Ultimately, Corcoran helped his clients avoid punishment not through his skills of persuasion, but by making use of the Agriculture Secretary's loose lips.

CAT scam

While the New Deal and World War II had created a market for executive branch lobbying domestically, the end of the Depression and the war created other markets for Corcoran. "You are coming back to one of the greatest foreign trade eras the world has ever known," State Department official Joe Panuch told Corcoran's brother Dave two months before the Japanese surrender. "You have to know how [to take advantage], and it is just a question of getting the jump."

To get his jump on the new era, Corcoran once again used expertise and contacts developed while in government. During the war, Corcoran had served FDR as unofficial head of Lend Lease to China, a program that operated in the form of a private corporation, China Defense Supplies. Corcoran's brother Dave had been the company president and FDR's uncle Franklin Delano and Chinese leader T.V. Soong (later premier) were directors. After the war, Corcoran's law firm quickly obtained Soong as a client with a $100,000 annual retainer. In addition, Corcoran personally moved to get in on various enterprises, peddling aspirin, branch banking, public works projects, and exports of every kind. Most of Corcoran's schemes remained pipe dreams after Chiang Kai-shek's nationalist government began to collapse under the pressure of inflation, corruption, and war against Mao Tse-Tung's communist forces. But he did succeed spectacularly in establishing a commercial airline in China—Commercial Air Transport or CAT, the only strictly private carrier serving China.

CAT began when Corcoran convinced Fiorello La Guardia, director general of the United Nations Relief and Rehabilitation Administration (UNRRA) and formerly mayor of New York City, to put up nearly $2 million to purchase surplus cargo planes, fuel, and other supplies necessary to start up the airline. In return, CAT would ferry UNRRA's relief supplies to war-devastated China. Only after UNRRA needs were met would the airline be authorized to carry commercial freight. As a July 18, 1946 conversation showed, Corcoran and General Claire Chennault, the wartime commander of the Flying Tigers Air Group and president of CAT, were eager to carry as little humanitarian cargo as possible:

Chennault: This thing would be a great moneymaker if we didn't carry a pound of UNRRA cargo.

Corcoran: I should think so too. The problem is how do you get the original equipment.

Chennault: Yeah, but I mean if we get the equipment.

Corcoran: That's right, if—

Chennault: Then don't carry a pound of this UNRRA cargo and make a lot more money.

Corcoran: More money. I told them [the Chinese investors] that.

Corcoran and Chennault were able to keep their commitments to UNRRA and establish a marginally profitable airline. After the triumph of Mao in 1949, they played upon fears of a spreading Asian communism to persuade the CIA to subsidize their airline as a source of supplies to anti-communist guerrillas. In 1950, the agency purchased CAT outright. Not only did Corcoran and other shareholders pocket $950,000 from the acquisition deal, but the CIA acquired the beginnings of an "aerial empire" that would eventually support covert operations in Nicaragua and throughout the world.

Corcoran had played the foreign policy game perfectly with CAT, beginning the airline to meet the need for post-war relief, then selling it when concern switched to the containment of communism. But the tapes show that he was less successful in his bid to become a broker for the billions of dollars in loans that the federal government used to spur the revival of international trade. Corcoran's approach was to influence appointments to the Export-Import Bank, the main source of foreign loans in the 1940s. He had helped establish the Export-Import Bank as an FDR adviser in 1934. Loans were to be disbursed to help foreign governments buy goods produced

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by American concerns. Corcoran's candidate to head the Export-Import Bank was Leo "The Lion" Crowley, a New Deal colleague who had run lend-lease. Corcoran believed that with Crowley at the helm, the bank would authorize hundreds of millions in loans to nationalist China "to be spent as we want it spent."

Corcoran was also interested in loans to communist-bloc countries, virgin territory for commercial expansion. "You're going to have a terrific voice on the Russian business and on the Balkan business and on the Polish business...the satellite states that are part of the Russian thing," Corcoran told Leo Crowley on October 21, 1945. "I think we can control that all right," Crowley replied. His interest in trade with communist countries did not, however, stop Corcoran from joining the virulent red-baiting of the time, especially when it served his personal ends. When Nelson Rockefeller, an occasional business partner, was dismissed as assistant secretary of state, Corcoran blamed "that wild commie-kike crowd that are sure that if you're not willing to dissolve all existing forms of society to their benefit, you're an s.o.b." At another point, when it appeared that a plan to have Navy planes fly UNRRA relief missions to China threatened support for the Corcoran-Chennault airline, Corcoran cried "commie" conspiracy.

Without access to Truman's White House, however, Corcoran was frustrated in his efforts to gain leverage over the Export-Import Bank's appointees. He learned that connections may only take you so far if the people in power simply don't want to listen to you. Truman didn't appoint Crowley or any other Corcoran ally to the Export-Import bank. On November 11, 1945, Corcoran's partner Bill Youngman gave the following gloomy report about prospects for loans to China:

Youngman: I have a feeling this (U. S. to China loan) is going to be in troubled waters.

Corcoran: I have no doubt about it.... We bet on a horse that didn't show up.

Revolving that door

By invading the privacy of Corcoran, Harry S. Truman and J. Edgar Hoover inadvertently opened to public view the once hidden world of influence peddling in Washington, D.C. Corcoran, who remained an active player in the capital until close to his death in 1981, was by no means America's first high-powered lobbyist. For much of American history, corporations had hired lobbyists to press their claims in Congress. But the dramatic government expansion that began with the New Deal and World War II, and exploded in the sixties and seventies with the Great Society, spawned a breed of lobbyists who knew the workings of the executive branch. The boom in Washington office building construction is explainable in no small part by the need to provide safe haven for the Tommy Corcorans of the eighties.

Corcoran's lasting contribution to American politics was in showing just how self-enriching passage through the revolving door can be. He provides the evolutionary bridge between the crass "fixers" of the past who bought and sold congressmen and today's slick lawyers who serve the public interest for a short time for the sole purpose of cashing in later. Corcoran was not the only former New Dealer to follow such a path. For example, Thurman Arnold, FDR's assistant attorney general for antitrust, went on to form one of the most respectable power-law firms in town, Arnold, Porter and Fortas. "Thurman is doing awfully well," Corcoran remarked on November 3, 1945. "The lure of that name is bringing in a lot of spectacular stuff to him."

Perhaps more dramatically than any other ex-New Dealer, Corcoran had turned against the idealistic vision that had supposedly brought him to government. Initially claiming to be a proponent of an activist government committed to the public good, Corcoran then spent 40 years trying to circumvent or exploit for private gain the laws and regulations that government established. In Corcorans' Washington, the tapes reveal, everything was negotiable.

One of the few Corcoran recruits who could not live comfortably in this world was Joseph Rauh, later counsel to the Leadership Conference on Civil Rights. Corcoran admired Rauh's intelligence and hard-work, but was frustrated by his penchant for clouding business arrangements with ideology. In a conversation taped on January 4, 1946, Corcoran asked former New Deal colleague Ben Cohen to help discipline Joseph Rauh.

"Joe's got to remember, fellow, that we're not free agents and we're not in politics—we're playing a law business...just simply make him understand, fellow, that when you're in business to make money, fellow...you've got to play in line—you know what I mean—and your private life is part of the game.... The boy won't play in line, and an undisciplined colt isn't good to anybody.... Once you get into this business you've got to be a draft horse and you've got to wear blinders." ■

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TIDBITS AND OUTRAGES

◆

AS ZSA ZSA SAYS, MARRY RICH, DIVORCE RICHER

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THE AUTOMATIC PILOT SHOULD ASK FOR OVERTIME

A Harvard Medical School researcher reported recently that pilots often fall asleep during long flights. Occasionally, he reported, everyone in the cockpit nods off and planes cruise past their destinations.

◆

GOD BARELY EDGED OUT PAT SAJAK AS MOST ADMIRED PUBLIC FIGURE

The Notre Dame study of Catholic Parish life showed that bingo attracts people to Roman Catholic churches three times as often as religious education programs.

◆

JINGLE BELLS, JINGLE BELLS/ JINGLE ALL THE WAY/ OH WHAT FUN TO PACK A ROD/ SO GO AHEAD AND MAKE MY DAY

To wish people well over the holidays, John M. Snyder, chief lobbyist for the Citizens' Committee for the Right to Keep and Bear Arms, sent out Christmas cards with a picture of a beaming Bernard Goetz sitting astride Santa's knee and receiving a "full pardon" for Christmas, with the Manhattan District Attorney Robert Morgenthau downcast, sulking alongside.

◆

RAQUETBALL WAS A CLOSE SECOND

A survey by the makers of Purina Dog Chow concluded that "today's dogs are in tune with the national fitness trend. About half of those questioned say their canine enjoys jogging better than any other sport."

◆

LESSON ONE: SPEAK SOFTLY AND CARRY A TOW MISSILE.

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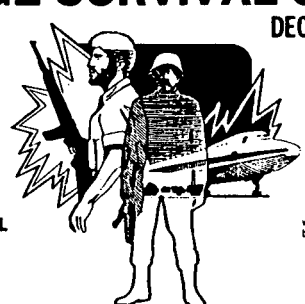

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Unbeholden to Wall Street, privately held companies can behave more responsibly

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One of the forgotten tragedies of World War II was a precipitous decline in the quality of candy. With government rationing of sugar, cocoa, and other key ingredients, many candy firms used cheap substitutes, and made windfall profits. But the people who walked into Fannie May shops in Chicago got the real thing: pure delectable candy. The company's owners decided that instead of adulterating their product they would simply sell less of it and make less money.

It was not the first, or the last, time Fannie May Candy Shops, Inc. skipped a chance to get fat. The company has, for example, always stayed away from making candy for others to sell under different brand names. "We have no idea what they might be doing with the product once it's out the door," Richard Peritz, the firm's president, told *The Chicago Tribune*. A longstanding refusal to use preservatives meant Fannie May could expand only slowly to ensure delivery of fresh merchandise weekly to company-owned shops. "We're not desperate to do business at any cost," says Peritz.

Fannie May can operate this way because it is privately owned and thus free of the pressures to pursue profits that the stock market imposes on companies whose shares trade publicly. Most private business owners, of course, do not purposely avoid profit opportunities. But the fact that they can is an underappreciated freedom. Private business owners are also freer to pursue worthwhile ventures aggressively, even if it means large short-term sacrifices. Most important, they can spend every penny of company profits as they see fit: on higher wages and benefits, on philanthropy, on research for new and better products and services, or on new equipment that is more efficient, safer to work with, and easier on the environment.

This is no small privilege, considering their impact on the country. One hundred and seventy-five of the Fortune 500 companies are family owned or controlled; privately owned firms of 100 or more employees make up one-fifth of the U.S. economy. While corporate reformers talk about shareholder democracy, management accountability, and other issues involving publicly traded companies, privately held companies are in the best position to create models of capitalism at its best.

Betraying the faith

Taking a company public can be unavoidable if a firm needs capital to expand and cannot secure it any other way. But the usual motivation for going public is the self-interest of the owner. Turning a fixed investment like a company into liquid assets by selling some or all of it, then reinvesting the assets in diversified portfolios, has always been the way to secure a life of leisured wealth.

The prospect of wealth, however, can be outweighed by the loss of control. "When you go public and sell the majority of the firm, you've essentially made the marketplace your partner," says Columbia University law professor John Coffee. "It's a very finicky partner." Decisions concerning ethics or the future health of the company can upset Wall Street and drive a company's stock price down. And there's nothing like a low stock price to put the manager who wants to do the right thing on the defensive. His proposals—whether they are to reduce the plant's pollution emissions, use sturdier materials in the product,

Paul Glastris is an editor of The Washington Monthly. *Alex Friend provided research for this article.*

by paul glastris

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or increase worker salaries—can be voted down or his own position at the firm terminated by a board of directors made skittish by worried investors. The ultimate threat to his job, a corporate takeover, becomes likely when a stock's price dips below the value of the firm's assets.

Wall Street isn't stupid; a share price is as good a measure as any of a firm's long-term prospects. The financial markets will reward a company for a long-term investment, like R&D spending, by bidding up its share price, assuming such spending doesn't cut into short-term earnings. But that's where the problem is. There are innumerable occasions when a firm should sacrifice earnings now—even if it means some red ink—for future payoffs.

That's where private companies have the advantage, if they choose to use it. Without shareholder demands on company earnings, the owner-manager can spend those earnings on what's best for the firm and its customers and employees. Why should a public company executive risk his job by plowing money into new plants and equipment to make products that may or may not sell as well as those made in Japan, when he can sell existing plants, buy an insurance company, and give his stockholders all-but-guaranteed returns? This is one reason privately held companies often thrive in industries public companies have abandoned. Perhaps the brightest spot in America's otherwise dismal machine tool industry, for instance, is the privately held Ingersoll Milling Machine Co. of Rockford, Illinois, one of the most prosperous and technologically up-to-date machine tool manufacturers in the world.

A public corporation manager has more than his job on the line when making decisions on the crucial trade-offs between his company, his conscience, and his shareholders. A manager who fails to convince shareholders that he acted to enhance the long-term value of their investments can be sued for "waste and dissipation" of a firm's assets. The "business judgment" rule in corporate case law gives managers and directors great leeway in deciding how the interests of the shareholders are served. But the fear of such lawsuits quietly fences in the range of the public company manager's options. One could make a good case, for instance, that AT&T would best serve itself and the nation by slashing its dividends and devoting the money to R&D. But "if AT&T did that," says Georgetown University law professor Donald Schwartz, "it would be a betrayal of faith to the millions of investors who have historically depended on those dividends. The money managers, out of fiduciary duty to those investors, could sue, and I think they'd win."

Taking a gamble

"About ten years ago I did a survey of business owners who have taken their firms public," recalls Amar Bose, a professor of engineering at the Massachusets Institute of Technology, who also owns and runs the Bose Corporation, manufacturer of high fidelity equipment. "One of the things I found that was common to each and every one was the almost unimaginable time they spent—sometimes 25 to 30 percent of their day—maintaining the image of the company."

When the owner-manager goes public, he becomes as much PR man and politician as entrepreneur. There is suddenly a vast constituency of interested parties—directors, securities analysts, institutional investors, members of the trade and business press—to whom he must justify his decisions, for whom he must constantly be putting the best face on quarterly earnings reports. Not playing to this audience means risking a dip in the company's share price, which managers rightly fear. All those Archer Daniels Midland ads on television aren't meant to get Joe Sixpack to rush out and buy grain; ADM sells only by the bargeload. The ads serve only to keep the company's stock price buoyant by promoting ADM's success in the agricultural products business. You will not see ads for Cargill, ADM's privately held

If private companies can be worse than public companies, they also have the freedom to be better—and kinder.

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Without shareholder demands on company earnings, privately held companies can spend those earnings on what's best for the firm, its customers and its employees.

competitor.

Keeping share prices up by fielding the questions of analysts, investors, and business newsmen was not Amar Bose's idea of fun. "I for one am not prepared to spend 25 percent of my time doing PR. I'd rather do research," he says. Those who have never been entreprenuers or worked for them may not understand, but a major reason many people start businesses is to do the kind of work they like. For Bose, and for the star MIT students he brought into the company with him, doing cutting-edge, scientific research of high fidelity technology, then incorporating the findings into state-of-the-art equipment, was at least as big an attraction as the money to be made. The passion for research paid off in critically acclaimed equipment. For teenage audiophiles in the seventies, having enough disposable income to afford Bose speakers was an incentive to grow up.

Despite the success, Bose has good reason to believe his firm would not have survived as a research-oriented organization had its shares traded publicly. In 1979, Bose began sinking money into developing a line of American-built car stereos for General Motors to offer as optional equipment. It was a big gamble. He had no contract from GM, nor had GM ever offered such a non-cosmetic option on its cars. It was also bad timing; the recession that hit months later decimated sales at Bose and throughout the industry.

Managers at almost any publicly traded company would have cut the project to boost earnings. Bose kept millions in R&D money flowing. In 1982, Bose Corporation went into the red for the first time in its history. This led a bank that had been providing the firm with credit to pull its financing. Had the company been publicly traded, Bose told *INC.* magazine, "I certainly would have lost my job." Today, Bose car stereos, which GM now offers as optional equipment, make up more than 20 percent of Bose Corporation sales.

Textile tenderness

The dream of running a wonderful company that makes top-notch products and is a pleasure to work for is apparently not behind the latest trend in corporate "privatization": the leveraged buy-out (LBO), in which managers borrow money to buy the outstanding shares of the companies they work for, using the company itself as collateral. Most managers who engage in these buy-outs eventually plan to take their companies public again, at huge profits to themselves. They justify their windfalls by saying they are being rewarded for making the tough decisions, which usually involve plant closings and massive layoffs. A good many of these closings are necessary to save the companies involved. But these managers are usually far too busy dreaming about the seven-figure "rewards" they're going to get to put much effort into easing the suffering of the employees who are affected by their "tough decisions."

The case of Levi Strauss & Co.—the world's largest garment manufacturer—is an instructive exception. In 1971 Robert Hass, CEO and great-great-grandnephew of the famous blue jean maker, took the family-owned company public. As long as sales grew, which they did throughout the seventies, Wall Street was happy, and Hass, who, with his family, had kept 40 percent of the stock, retained general control over company policy.

Keeping control was important to Hass; he had a reputation to protect. Levi Strauss had long been singled out as a model of corporate responsibility. When the 1906 San Francisco earthquake destroyed Levi's plant, as well as much of the city, the company took out newspaper ads to let its employees know their paychecks were coming. Levi racially integrated its plants long before the law forced other manufacturers to do so. Levi employees—85 percent of whom are women—have historically received pay, benefits, and profit sharing far above the industry average. And

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it has a record of corporate philanthropy that should put other firms to shame, devoting 2.3 percent of its pretax earnings to charities and employee-run community volunteer programs—triple the corporate average.

But in 1984, sales dropped 8 percent, the company's share price followed, and the specter of a takeover loomed. The company would have to close plants to survive. In order, said Haas, not to lose the company's "important values and traditions" and to make difficult decisions without worrying about Wall Street's reaction, the family borrowed $1.7 billion to buy its shares back. To pay off the debt, Hass sold off companies Levi had acquired while it was public.

Now fully in charge, Hass went about the dirty business of "downsizing" a company that had too much capacity to survive, with a consideration for affected workers that is rare in corporate America, especially in the textile industry. Workers got three months' advance notice (a relatively rare phenomenon) that their plants would be closing, priority in hiring at other Levi Strauss plants, and financial help in moving if they chose to take the new jobs. Seventy-five hundred couldn't or wouldn't move; most were women working at plants in small or midsized southern towns. For these employees, Levi Strauss provided up to a year's extended medical benefits as well as intensive job retraining and outplacement services. What's more, the company kept up its philanthropic commitments. Today, the Hass family could tender their shares for a huge profit. Few if any analysts, however, think they will.

Levi Strauss is an exceptional company. It's safe to presume that most private business owners wouldn't choose to go the extra mile in this way. Indeed, plenty of other private businesses use their freedom for socially irresponsible ends. Because the Securities and Exchange Commission doesn't require them to disclose financial data as publicly traded companies must, private businesses find dodging the tax man a lot easier. But if private companies can be worse than public companies, they also have the freedom to be better—and kinder.

It is the freedom to be exceptional that makes running a private company appealing. Public corporation executives often convince their directors and shareholders of the PR value of giving small percentages of their earnings to good causes like charities. They could never get away—to take an extreme example—with giving all the company's profits to charity, as actor Paul Newman has done with his salad dressing company. Family-run newspapers that spend a large portion of their earnings on expensive foreign bureaus and teams of investigative reporters, or that forgo revenue by not accepting cigarette ads, may be less profitable than papers owned by publicly traded conglomerates that don't make such sacrifices to quality or ethics. But they are assets to America and sources of pride to their owners.

Putting concerns like product quality above profits doesn't have to mean forfeiting prosperity. Being sheltered from the stock market's discipline certainly hasn't turned Fannie May into a charity case—though it is very nearly a civic institution to sweet tooths in Chicago. The firm is in fact thriving; it is the midwest's largest candy chain, with 215 shops in 11 states and the District of Columbia. "Fannie May is a very successful regional company," remarks Lisbeth Echeandia, publisher of *Confectioner*. "They have a down-home, all-American image and very loyal customers. Their prices are extremely reasonable. In terms of product and positioning in the market, I'd say they're excellent."

The prospect of selling the company is now its biggest temptation. "I can't count the number of times people we know and aquisitions brokers call about selling," says Peritz. The firm's answer, says vice president of sales Jack Barber, is always the same: "Absolutely not. There is neither the intention, nor the desire to take the company public. You lose too much control." ■

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Sam Donaldson's style is more than just entertaining

PUSHINESS WE CAN RESPECT

by Jody Powell

Let's get this out up front: I like Sam Donaldson. More to the point, I even liked the guy when we were hurling insults and accusations at each other in the White House briefing room some years back. Unlike some of his colleagues, he always came straight at you. If he had a story he knew you'd hate—and he often did—he'd make sure you got a chance to have your say. And when you talked to Donaldson about a story, you were dealing with the man who makes the decision. No ninny in New York was going to call in at the last minute to tell him how to cover the White House.

Well, now there is a Donaldson book*, and it comes right at you, too. It's vintage Sam. He says he rejected the idea of hiring a ghostwriter, and it's clear that he's telling the truth. Read a few paragraphs aloud and your eyebrows begin to arch upwards in that inimitable Donaldson style. It's him alright.

The Donaldson ego is there, too. Toward the beginning of his chapter on television news reporting he unabashedly observes: "Call me a braggart, call me arrogant. People at ABC (and elsewhere) have called me worse. But when you need the job done on deadline, you'll call me."

Still, there is more than the usual ration of self-deprecating stories and admissions of error. The latter are rare enough in Washington books of any description and particularly scarce in those by journalists.

Hold On, Mr. President! does not claim to be a scholarly dissertation on the last quarter century of Washington journalism, and it's not. Mostly it is a collection of stories, anecdotes, and observations. At that level it is the best such collection to come along in quite a while. In at least two areas, however, his book has serious things to say about business immediately at hand.

The first has to do with the nature of a reporter's job, particularly at the White House. Appropriately, his first chapter is entitled "Challenging Presidents." What he has to say is hardly new, and it might not have seemed terribly important three months ago. Now, with most journalists pumping out lame defenses for their six-year failure to challenge much of anything about the present administration, Donaldson's dogged approach deserves more than casual consideration.

Most of the journalists now squirming in the wake of the Iran scandal wouldn't be caught dead shouting a question at a president from behind a saw-horse. Some even turn up their noses at presidential press conferences. All are now using presidential answers to Donaldson questions to explain belatedly to the public what this administration is really like.

Who asked the question on Martin Luther King that produced evidence of profound presidential ambivalence over whether King was a "communist sympathizer?" What about the one that elicited the sweeping condemnation of the Soviet Union at Mr. Reagan's first press conference? Or the one that produced the first statement from the president, or any other administration official, that the goal of American policy was to "remove" the Sandinista government of Nicaragua? You guessed it, and the list goes on and on.

Donaldson says his job is to challenge

Jody Powell, press secretary in the Carter White House, is a syndicated columnist and a commentator for ABC News.

**Hold On, Mr. President!* Sam Donaldson. *Random House, $17.95. To be published at the end of March.*

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presidents, to press them for explanations and justifications, to get the man at the top on the record and keep that record straight. Not a terribly original idea, but one that has suffered from some degree of neglect in recent years. Indeed, a reasonable case can be made that more attention to establishing the record and keeping it straight over the past six years might have kept the administration and the country out of the mess in which we now find ourselves.

The other thing that Donaldson's book should do, though I'm not sure to what extent the effect was intended, is to disabuse all but the most perverse of the idea that political or ideological bias is the major problem in Washington journalism. It is simply not possible to read Donaldson's account of the truimphs and disasters of his career—charges onto convention podiums, leaps from airplane doors, stake-outs, ambushes, and all the rest—and conclude that he and his colleagues are primarily interested in promoting a political point of view. Their interest, sometimes to excess, is getting a story and getting on the air, preferably at the top of the evening news and ahead of the competition.

The bias toward being exciting and being first can produce its horrors, as several of Donaldson's stories make clear and as those of us who've been on the receiving end of network coverge will readily attest. It's that problem, not political bias, that those "media critics" should be addressing.

Actually, Donaldson's book may have another consequence—one that was almost surely unintended. Some of those people out there who have delighted in Sam Donaldson as the television correspondent they love to hate, who damn his irreverent questions even as they delight in the answers they provoke, are going to read his book. Their curiosity will simply get the best of them. And they're going to end up seeing their old bugbear as a very human, witty, even—God help us—likeable fellow. ■

What moderates can learn from Jesses Jackson and Helms

LESSONS FROM THE FRINGE

by Taylor Branch

Both these men spend a lot of time in churches castigating devils, including each other. In the spring of 1984, presidential candidate Jesse Jackson flew to Raleigh to support Gov. Jim Hunt, then challenging incumbent Jesse Helms in the most expensive campaign in Senate history. "With 200,000 more blacks registered, Jesse Helms could be put out of work," Jackson declared. He toured black churches, then flew out of the state and left the registration work largely to Hunt. In direct response to Jackson, Jesse Helms toured the white churches of North Carolina with Jerry Falwell and a honey-voiced preacher named Lamarr Mooneyham, whose Moral Majority workers managed to register more Helms conservatives than Hunt registered Democrats.

Helms won narrowly, running well behind the Reagan landslide. These books* suggest that his margin of victory lay in mobilized white antipathy to Jesse Jackson. Similarly, in five states where Jackson's freedom train inspired a massive upsurge of black registration, adding some 400,000 new black voters, white registration jumped 1.2 million. The obvious lesson is that in primitive contests of racial solidarity, the numbers tell heavily against American blacks.

Taylor Branch, contributing editor of The Washington Monthly, *is at work on a book on the life and times of Martin Luther King.*

**Hard Right: The Rise of Jesse Helms.* Ernest B. Furgurson. *Norton, $18.95.*

**Thunder in America: The Improbable Campaign of Jesse Jackson.* Bob Faw and Nancy Skelton. *Texas Monthly Press, $16.95.*

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Jackson, while drawing as much as 85 percent of the black vote, never received more than 9 percent of the white vote in a presidential primary. This is why those Democratic politicians who look eagerly toward a Jackson re-run in 1988 tend to be from districts that are overwhelmingly black. No one else can afford the psychic boost.

The two Jesses are outsiders of opposite stripes. Helms holds real power—he has built a national money machine, he practically writes the Republican platforms, he owns a score of ambassadors and an oversized toehold in the Senate—and yet clings to his self-image as a victim. He protests against persecution by the "elite media," appeasers of communism, and faint-hearted conservative pragmatists. He fillibusters. He stands on his hind legs. Whereas the Reagan administration projects pained tolerance for South Africa and Pinochet, Helms loves them. He pushes his position to an obstreperous extreme and then complains of the result. Ernest Furgurson is at his best in showing what a lifelong achievement it has been for Helms who began his career as the spokesman for North Carolina's banking industry and always since has made alliance with privilege to pass himself off as an underdog. For 35 years, Helms's most consistently effective tactic in this charade has been to cry out over the travail of the white race, which he sees oppressed by liberals, secular humanists, and minority leaders such as Jesse Jackson.

Bedding down with the Lumbee

Jackson came by his outsider credentials more naturally. As the bastard son of a poor teenage mother, he battled against pariah status even within the black leadership class, let alone amongst the majority whites. He represents a poor constituency in a rich nation, the left on a spectrum where the left is largely extinct. By way of consolation, these long odds offer Jackson a freedom from constraint that he often has used imaginatively. Unlike Helms, whose chutzpah is dull and colorless, Jackson entertains even his enemies. He wiggles and winks, flies off to Cuba and Syria on impossible missions of shocking common sense, beds down his Secret Service squad with Lumbee Indians near Pembroke's Chicken Road, and lures Fidel Castro into church for the first time in three decades. Although he often speaks in Muhammed Ali doggerel, which is tiresome and condescending, he also possesses a rakish wit and the gift of cross-cultural perception. Like Malcolm X., Jackson teaches as well as amuses when he explains, for instance, why he thinks none of the American television networks maintains a bureau anywhere in black or Arab Africa.

These two books are narrow political biographies, variations on Theodore White's genre of post-campaign analysis. As such, they proceed relentlessly from speech to meeting to poll to speech. Furgurson in particular stretches political argument into biography, giving more ammunition than enlightenment. Driven by his argument, he sees no leavening merit anywhere in Helms's record, not even in his quixotic effort to save the hapless seaman Medvid from the Russians and the Reagan bureaucracy. The few attempts at personal interpretation, such as the assertion that journalism school would have corrected Helms's right-wing screed, are hamhanded and specious. In conventional terms that might be applied equally to Jackson, Furgurson attacks Helms as a radical, an emotionalist, a threat to stability, a stranger to institutional respect. Both books take the pundit's usual view that because most of the votes are in the center, these two fringe politicians can only hope to move the center—that neither can *be* the center, hold power.

As this is hardly news, the books might appeal only to those specially interested in Helms or Jackson. However, if one holds that the political center is sinking—that the moral and economic health of the country is being mortgaged steadily beyond repair—then the books offer valuable lessons about failures on the left and right. Furgurson, writing before the November elections and the recent Iran scandals, detected signs of a fatal weakness in the conservative movement. Time in office made it harder for Helms and Reagan to run as "aginners." More importantly, they were betraying conservatism's most appealing premise of self-discipline, its steely respect for facts and limits. Furgurson reported that Helms's technocratic, direct-mail money machine was spending 98.6 percent of revenues on itself. Only 1.4 percent went to favored candidates. This was a standard of larceny unmatched by all but the most fraudulent of charities. Against it, all the "market-tested devil figures" in the world could not save the conservative movement from self-indulgent corruption compounded by the usual arrogance.

Burying the rainbow

The failure on the left is more complicated, and Faw and Skelton have responded with a more sensitive, discerning book. Readers put off, as I was,

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by the prominently advertised "Foreword by Dan Rather," will find a pleasant surprise of artful prose and vivid characters. Their sketch of the ferociously wounded candidate's wife, Jacqueline Jackson, is sadly convincing. Their portraits of Jackson's advisers, vacillating between euphoria and disillusionment, and of politicians maneuvering between black pride and survival, build toward glimpses of revelation. During Jackson's long speech at the San Francisco convention, several of his supporters are described as cursing him in despair over the elements of conciliatory statesmanship in that speech—for not telling the whites and the Democrats to shove it—until one saw whites crying in the convention hall and realized, " 'My God, I'm part of something big.' " Through treacherously sensational material, the authors maintain not only their balance but also their humor. Perhaps because their story is so complex, they make no pretext of imposing a politically correct viewpoint, and the happy result is a book that rings true.

Jackson's feud with American Jewish leaders appears as a tragedy that resonates far beyond the ethnic rivalries of a single presidential campaign. The hostilities described between "Hymie" and "schwartze" seem both searing and petulant, real and contrived. The nub of contention—Jackson's private reference to New York as "Hymietown" and his subsequent reluctance to apologize—emerges as only a pale reflection of the hositilities. Numerous Jackson advisers adopted a bilious attitude of "fuck the Jews," and Jackson himself deeply resented the assumption that he would embrace apology more warmly than, say, Ronald Reagan or Ariel Sharon. Some Jewish leaders, for their part, are described as admitting that the "Hymie" remark was a pretext for deeper animosity, that they would have hated Jackson no matter how heartfelt his apology.

This is a bigot's dream—deepseated hatred between minorities. On the other hand, the book presents some evidence that black and Jewish leaders are inciting rather than accommodating mass hatred, in the manner of classical demagogues, and are much more hostile toward each other than are their respective followers, who tend to look on in puzzled sadness. Ties between blacks and Jews rest on too much history and common sense to be so easily discarded. It is no accident that the vast majority of American black churches take their names from the Old Testament—Mt. Zion, Ebenezer, Mt. Moriah, and so on. Not only were the yarns of the Old Testament more accessible to those denied literacy, as was the quest of Moses riveting to a people in slavery, but the political, theocratic role of Moses was adopted by black preachers in a society that permitted no black institution of authority other than the church. The Old Testament helps explain why the first black presidential candidate was a preacher instead of a banker. The music of the spirituals is largely Old Testament music, and such things still run deep.

Practically speaking, the factors that transformed that cultural tie into a political alliance are still valid today. Both blacks and Jews remain minorities acutely sensitive to the historical cycles of persecution. In the last two centuries they placed their hopes in alliances with people of good will and in appeals to universal standards of justice. This produced the Jewish utopianism that lay at the intellectual foundations of the political left all over the world, and it led to the civil rights movement. What has changed in the last twenty years—since Israel's Six Day War and the rise of black power—is that the leaders have created an illusionary world of surly self-sufficiency, competing among themselves in resentment against the need for alliances. Many old Jewish leftists have turned into neo-conservatives. They identify with the powerful rather than the oppressed, even though it is the powerful who have hurled down the historical repressions of Jews. The Jewish utopian tradition has virtually vanished in American thought, such that candidate Jesse Jackson found himself leading not only blacks but an atrophied political left, which he optimistically called the Rainbow Coalition.

Jackson allowed race to swallow up his effort to revive an American left as an alternative to the sagging center. He buried dollops of fresh Rainbow Coalition in a thousand choruses of "Our time has come." Perhaps this was inevitable, as the twin burdens of race and ideology worked against each other. To devise and hold steadfastly to a political program based on universal standards touching the legitimate aspirations of all peoples would have required not only genius in Jackson, but also superhuman patience. It might well have gained him nothing but a tepid reception among blacks. Cornered, he settled for a campaign to harvest the available acclaim. His course mirrors the insularism of black politicians who have little to offer their constituencies beyond vicarious participation in their own success as leaders, and of Jewish leaders who expect short, victorious wars. Long before Jesse Helms, leaders short on vision and substance learned to make good use of devils. ■

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POLITICAL BOOKNOTES

The Harvest of Sorrow: Soviet Collectivization and the Terror-Famine. Robert Conquest. *Oxford University Press, $19.95* When future histories are written, the twentieth century may come to be known as the era of genocides. We have seen the slaughter of 1.5 million Armenians by the Turks, the extermination of six million Jews in Europe by the Nazis, and the auto-genocide of perhaps two million Cambodians by their own rulers.

Although the terrible famine in the Soviet Union in 1932-33 has been well known, it has usually been regarded as an inadvertent result of Stalin's forced collectivization. In his powerful, well-documented new work, *The Harvest of Sorrow*, Robert Conquest makes a persuasive case that the famine was no accidental catastrophe, but a deliberate policy of class and national extermination directed by Stalin against the peasantry.

An estimated seven million died of starvation, Conquest calculates: five million in the Ukraine, one million in the North Caucasus, and one million elsewhere. Another 6.5 million died from "dekulakization," the brutal campaign against the kulaks, who were seen by Stalin and the party as an exploitative class of landowners, but whom Conquest portrays as simply the most industrious peasants—petty-bourgeois, but far from rich. The "liquidation of the kulaks as a class," in the words of Stalin's order of 1927, involved executing some, imprisoning others, and deporting still others to remote areas of Siberia.

Those peasants who were left were the target of Stalin's mad conviction that grain was being withheld from the state. He ordered impossibly high quotas of grain from the Ukraine and sent teams of military and party activists to search ruthlessly for caches of grain. One peasant, Conquest writes, "was shot for possession of 25 pounds of wheat gleaned in the fields by his 10-year-old daughter." People robbed graves, searching for jewelry with which to purchase food in the cities. Some mothers even killed and ate their children.

The famine, he argues, was largely a result of Stalin's fear of the Ukraine's power and nationalism. "Over in Russia," he writes "things were different." An editor of an Odessa newspaper "described two villages on either side of the Russo-Ukrainian border, where all the grain was taken from the Ukrainian, but only a reasonable delivery quota from the Russian villages." The famine also was coupled with a campaign against the artifacts of Ukrainian national culture, including the Church.

Conquest writes with a dry passion, piling fact upon fact, statistic upon statistic, account upon account until whatever resistance the reader may have to an acceptance of the truth is chafed away, leaving only stark belief.

Conquest, a senior research fellow at the Hoover Institution, is best known for his work on Stalinism, *The Great Terror*. *Harvest of Sorrow* must now stand beside it as a companion volume in documenting one of history's most terrible manifestations of state madness.

—David K. Shipler

Power of Attorney. Mark Stevens. *McGraw-Hill, $17.95* The practice of blue-chip law, my first-year civil procedure professor told us, is mostly boredom. A respected teacher and judge in the last semester of a 50-year career, he assured us we'd get used to it. After all, non-lawyers would think we were doing something important, and our Ivy League degrees would guarantee good pay.

The only thing to fear, he warned, is lawyers who want to turn the profession into a mere business. "There are worse things than boredom," he declared, bony forefinger held high. "There is perfidy and greed."

Having already heard about Wall Street salaries, most of us were keeping an open mind on greed. But Mark Stevens reports in *Power of Attorney* that the tweedy old bird was onto something. Crass capitalism, Stevens writes, has invaded the once serene realm of corporate law.

In the good old boring days, prominent firms enjoyed virtual monopoly status in representing flocks of sheep-like companies and banks. In-house counsels were weaklings whose job was to nod yes, yes, while the meters kept running up, up. These captive relationships enabled established legal practices to "all but ignore such boorish concerns as efficiency, productivity, marketing, and competition," Stevens writes.

Today, huge firms gobble up smaller ones and shamelessly raid competitors for top lawyers and clients. Taking cues from Madison Avenue rather the Old Boy Network, the new breed uses marketing flash to lure customers, and scatters field offices like a fried-chicken chain. Disappearing from the culture of corporate law are loyalty to the firm and aspirations to academic accomplishment or public service. Traditionalists fight a futile rear-guard battle, mourning a loss of quality and dignity.

Stevens, who has written widely about business, provides a useful, if sketchy, outline of this transformation. What the book lacks in depth, it makes up for in bluntness. The author persuaded a wide circle of heavyweight lawyers to accuse each other of complacency, avarice and worse. The pin-striped bitching provides a certain perverse entertainment.

A major target of these attacks,

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and Stevens' prime example of the marauding new mega-firm, is Finley, Kumble, which began with eight lawyers in 1968 and is heading toward 700 today. The New York-based firm unapologetically snatches competitor's long-time clients, promising cheaper, more comprehensive service from offices spread out across the country and the world. When that doesn't work, Finley, Kumble borrows a tactic common in advertising and public relations, but previously taboo among respectable law firms: It buys its competitors' more profitable partners, clients in tow.

Finley, Kumble partners argue that customers don't care about tradition, pipe smoke, or how many law review articles a firm produces. Clients respond to a hard sell and increasingly demand the kind of one-stop shopping that only the largest firms with the most specialties can provide. Keeping the best specialists on hand requires not professional comeraderie, but greenbacks—in some cases, millions of them. "Almost everyone has his price," says managing partner Steve Kumble.

Stevens traces the origins of the Finley, Kumble strategy to the wising-up of clients that began about 1970. Corporate legal staffs fought their way through the storm of retainer invoices and hourly bills to discover that they were getting royally ripped off. A legal vice president for a bank tells Stevens that his main goal when he left his old firm was "to make certain my former colleagues didn't charge this client what I used to charge it."

In-house legal staffs grew in size and sophistication, taking over routine work once farmed out to expensive firms. They began comparison shopping when they did go outside, and the Finley, Kumbles were there to pitch the business. Firms that for generations had relied on gentlemanly relations with a handful of compliant clients saw profits dry up.

Power of Attorney unfortunately doesn't explain much of the significance of these trends. Finley, Kumble says it offers more efficient service at a lower price. Some of its competitors argue that the new national franchises are mostly mirrors and facades. "The whole apparatus is fine-tuned to bring in clients with hardly a thought to serving them once they're lured into the web," a partner of a more traditional firm says. Stevens might have investigated more thoroughly whether the quality of corporate legal work is actually improving or deteriorating as the business changes in style and structure.

For corporate lawyers, current and aspiring, Stevens' book serves as a warning that disdain for the sordid affairs of commerce will soon be a thing of the past. The new breed cares nothing about ivory tower trappings, and Stevens mentions public service only as it's used to line people's private pockets. The "revolving door of government service," for example, remains a "route to legal stardom," he writes. But few pretend any more that those revolving back to the "private sector" do anything other than twist the rules they once helped enforce.

Finley, Kumble has been particularly successful at deploying ex-politician "rainmakers," who peddle their names and connections to prospective clients. It's an old marketing trick, but one now pursued with a zest characteristic of Michael Deaver and other heroes of the Reagan era. Stevens describes how Finley, Kumble grabbed former governor of New York Hugh Carey the year after he left office to help grease the opening of a new market in municipal bond financing. In December, the firm announced it had signed departing Senators Russell Long, premier tax loophole artist, and Paul Laxalt, close friend of the Reagans.

Although he offers little critical commentary, Stevens does contribute to the demystification of lawyerdom. We still accord this profession, and especially its corporate law elite, high social status, defering to it on many matters of public concern. Some of its members no doubt live up to their reputation. But the new brassiness raises the question of whether the title "officer of the court" fits the people Stevens writes about.

—Paul Barrett

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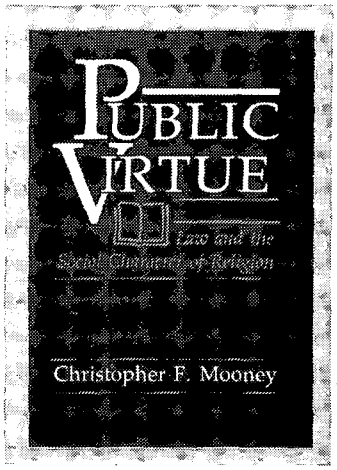

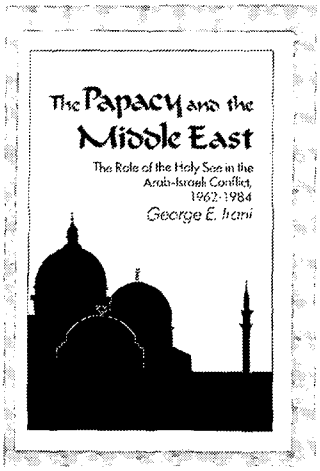

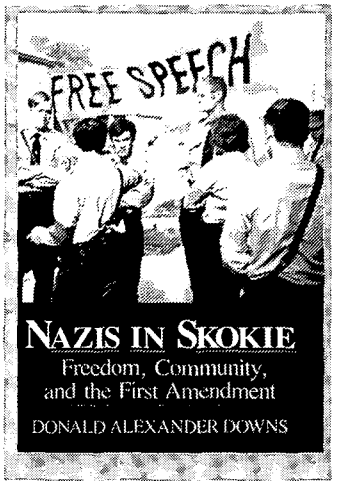

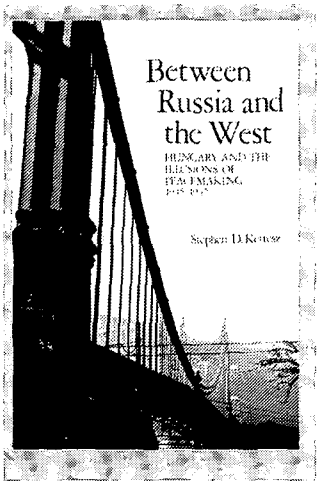

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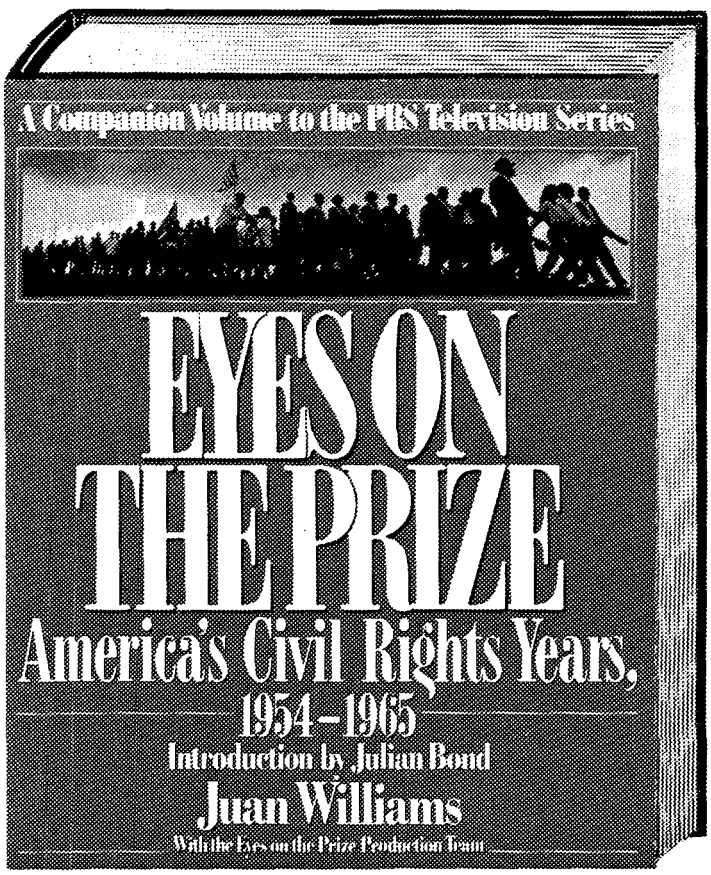

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